Transcript of the Deposition of:

Frank Thomas, III

Date: August 18, 2006

MACON COUNTY INVESTMENTS, INC, et al

Vs

SHERIFF DAVID WARREN

Case No. 3:06-CV-224-WKW

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[1]

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

MACON COUNTY INVESTMENTS, INC., REACH ONE, TEACH ONE OF AMERICA, INC.,
Plaintiffs,
CIVIL ACTION
VS.
FILE NO. 3:06-CV-224-WKW

SHERIFF DAVID WARREN, in his official capacity as the SHERIFF OF MACON COUNTY, ALABAMA,
Defendant.

* * * * *

DEPOSITION OF FRANK THOMAS, III, taken on behalf of the Defendants, pursuant to the stipulations set forth herein, before Jeana S. Boggs, Certified Court Reporter and Notary Public, at the offices of GRAY, LANGFORD, SAPP, McGOWAN GRAY & NATHANSON, 104 West Northside Street, Tuskegee, Alabama, commencing at approximately 9:00, Friday, August 18th, 2006.

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[3]

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ALSO PRESENT:
MR. DAVID WARREN
MR. WALTER WALKER

* * *

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* * *

STIPULATIONS

It is hereby stipulated and agreed by and between counsel for the respective parties and the witness that the deposition of FRANK THOMAS, III, taken pursuant to notice and stipulation on behalf of the Defendants; that all formalities with respect to procedural requirements are waived; that said deposition may be taken before Jeana S. Boggs, Certified Professional Reporter and Notary Public in and for the State of Alabama At Large, without the formality of a commission; that objections to questions, other than objections as to the form of the questions, need not be made at this time, but may be reserved for a ruling at such time as the deposition may be offered in evidence or used for any other purpose as provided for by the Federal Rules of Civil Procedure.

It is further stipulated and agreed by and between counsel representing the parties in this case that the filing of the deposition of FRANK THOMAS, III, is hereby waived and that said deposition may be introduced at the trial of this

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case or used in any other manner by either party hereto provided for by the Statute, regardless of the waiving of the filing of same.

It is further stipulated and agreed by and between the parties hereto and the witness that the signature of the witness to this deposition is hereby not waived.

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FRANK THOMAS, III,
of lawful age, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

THE REPORTER: Usual stipulations?
MR. THOMAS: Yes. And he is going to read and sign.
BY MR. GRAY:
Q **Mr. Thomas, my name is Fred Gray. Some people call me Senior; but when I was born, I was born Fred D. Gray. And my name didn't change when I had a son who was named the same thing. But if people call me Senior, I don't complain. I am going to have a series of questions to ask you. If you don't understand the question, just let me know, I'll try to rephrase it. If you need to take a break or something, just let me know that.**
A Yes, sir.
Q **Will you state your name for the record, please.**

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A Henry Franklin Thomas, the Third.
Q **And where were you born?**
A Montgomery, Alabama.
Q **Your date of birth?**
A October 23rd, 1971.
Q **And what is your mailing address?**
A Current mailing address is 2113 Allendale Road, Montgomery, 36111.
Q **And how long have you lived there approximately?**
A A little under a year.
Q **Okay. Where did you live before you lived there?**
A 2331 Fernway Drive, Montgomery, Alabama, 36111.
Q **And how long did you live there.**
A About two years, a little over two years.
Q **And before that?**
A Before 2101 Myrtlewood Drive, Montgomery, Alabama, 36111, approximately five years.
Q **And before that?**
A I built a cabin on Carter Hill Road out in Pike Road and lived there while they

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remodeled the house on Myrtlewood and lived there for the construction time of about a year.
Q **What's your marital status?**
A That's tough, but I'm not married right now, no, sir. I'm single. Never been married.
Q **Single.**
A Single, yes, sir.
Q **So, you're a bachelor?**
A Yes, sir.
Q **An eligible bachelor?**
A I guess so. Yes, sir.
MR. THOMAS: Watch out. Some of the questions are tricky, now.
THE WITNESS: She doesn't need to see this.
Q **What's your Social Security number?**
A 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.
Q **Alabama license number?**
A 5599707.
Q **And where do you consider your legal residence?**
A 2113 Allendale Road, Montgomery, 36111.

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Q **Give us your educational background, please.**
A I went to Trinity, a private school in Montgomery, through sixth grade then transferred to Montgomery Academy for seventh through twelfth and then to Auburn and graduated, I believe, in 1995.
Q **What was your degree?**
A Management.
Q **What was that, a bachelor?**
A Yes, sir.
Q **Any additional educational training?**
A I've got a real estate sales license, and then got a real estate broker's license. I've had it approximately five or six years.
Q **Have you had any training at all in the gaming industry?**
A As in professional training?
Q **Yes.**
A Well, I mean, I have not had any formal schooling. I've had three years of pretty hard serious due diligence in the business with some experts. But I've not enrolled or taken any classes for gaming.

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Q **Who have you had experience with that you consider experts in the gaming business?**
A The first person I had experience with was Mr. David Hanlon. He was the CEO of Resorts International for Merv Griffin. He was -- David Hanlon, H-A-N-L-O-N. He was the CEO of Harris Marina Operation.
Q **Where is that?**
A I'm not certain where it is. He was the CEO of IGT Gaming Corporation, which is the machine manufacturing company. And he's currently employed as the CEO of Empire Resorts in upstate New York, Montecello Race Track.

I've also had the pleasure to meet a young man by the name of Rob Miller who was with Sierra Designs, benefitted from the sale of Sierra Designs, and currently owns a company called Gaming Capital, who arranges gaming financing, machine financing, private equity, that type stuff.

Also, I've had the pleasure of meeting a fellow by the name of Bobby Price,

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HPC advisors out of South Carolina, who is more or less a gaming consult. Mr. Douglas Patterson, who is a private gaming consultant, very well respected. He built the Sheraton from the ground up in Tunica, Mississippi.
Q **Anyone else? Do you have the addresses of these people that you listed?**
A Not in my head, but I can certainly get them for you.
Q **However how long a period of time -- When did you first become interested in gaming?**
A Well, I mean, I'm a real estate guy. I've made my living in real estate and the majority of it in Macon County. I feel that I've really done a lot for Macon County, and I've contributed to the property values rising here, which hopefully people have seen that.

In 2003, when bingo passed, I was in the negotiations with the Warren family, current representative and current Sheriff David, for some property out along Highway

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80, in fact, next to your son Stanley. Stanley and Lawanda also bought property from me adjacent to the Warrens. And I've always been an entrepreneur. I've always looked at things and tried to figure out what works and what doesn't. And if it does work, how. I try to figure it out. And when I saw the yellow bingo signs scattered around Macon County, just like everybody else, I didn't know what they were. I assumed it was your grandmother going to the church and playing card bingo, which most people did. And when bingo passed, or when the bill passed, not the state level, but was ratified by Macon County citizens, Pebblin was very excited to hear -- excuse me. Representative Warren was very excited to hear so. And I asked her really what it meant. And she didn't know. We had a meeting in front of her house the day it passed regarding the property.
Q **Let me try to give you a question, if I may. And I will get back to that. But let me ask**

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you: What about your employment record?
A Employment record?
Q **Yes, sir.**
A I've always been -- I've, well --
Q **When you finished Auburn, what was the first job? And you say you finished Auburn what year?**
A Well, I believe it was '05. I can lead you back. My first job was when I was 13.
Q **I'm trying to ask you when you -- You finished Auburn when?**
A 2005.
Q **2005?**
A Yes, sir.
Q **Okay. And what was your first employment then?**
A Building fences and decks.
Q **For what company?**
A For my father and for myself. My father was a builder in Montgomery.
Q **And what's your father's name?**
A Frank Thomas, Junior.
Q **And where does he live?**

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A He's deceased.
Q **When did he die?**
A December 12th, 2002 -- excuse me -- November 12th, 2002.
Q **And the first full-time job you had you would say it would be in 2005?**
A No, sir. The first full-time job I had was while I was in college. I saw that there was nothing to do at Auburn. I had friends who went to Alabama.
Q **Just tell me what did you do.**
A I owned a business called The Locker Room in Auburn.
Q **The Locker Room?**
A Yes, sir.
Q **And what kind of business was The Locker Room?**
A Restaurant and bar.
Q **And where was it located?**
A It was located -- Well, it's currently -- they've renamed the road, but it's behind the Supper Club. It's no longer there. But it was around the Exit 51 in Auburn.

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Q **And when did you first go into that business approximately?**
A 2002 or 2003.
Q **And how long did you stay there?**
A Until I graduated in 2005.
Q **So, you were operating that business when you were in college.**
A Owner/operator, yes, sir.
Q **Okay. And it was restaurant and bar?**
A Yes, sir.
Q **Did it cater to any particular group?**
A College -- you know, college-age people.
Q **Okay. And did you -- What happened to that business?**
A Well, I sold it when I graduated.
Q **Who did you sell it to?**
A Sold it to my manager and financed it for him.
Q **And what's his name?**
A I can't remember his last name. His first name is Jerry.
Q **And you financed it for him?**
A Yes, sir.

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Q **And what was your next job?**
A My next job was when I got out. I came back and started building fences and decks while I was getting my real estate license. My father had a broker's licence. My father ran Lowder Realty back when I was born in the early '70s.
Q **So, you were in the fencing and decks?**
A Yes, whatever I could do to make a dollar, yes, sir. But it was working with my hands.
Q **Was there a name for that company?**
A No, sir, I worked with my father.
Q **Did your father's company have a name?**
A Frank Thomas Builder.
Q **And how long did you engage in the fence?**
A Six months.
Q **And what was your next occupation?**
A Real estate license.
Q **And when did you go into that business?**
A Well, approximately 2006 -- 2007.
Q **This year?**
A Excuse me. 1996 or 1997. I'm sorry.
Q **Nineteen --**

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A 1996 or 1997.
Q So, you had a real estate license before you had the business; is that what you're telling me?
MR. WALKER: You gave him 2005. Hold on a second.
A No, sir. Come back. I'm sorry. I obtained my real estate license in the mid '90s.
MR. THOMAS: All right. Hold on. When did you graduate from Auburn?
THE WITNESS: In 1995.
MR. THOMAS: That's not what you told him. Listen to his questions.
THE WITNESS: I'm sorry. 1995.
MR. THOMAS: Let him finish his question and answer it. You said you finished Auburn in 2005.
THE WITNESS: I'm sorry. I'm sorry.
Q Okay. Now, you finished Auburn when?
A 1995.
Q Okay. And what was the first job you had when you finished Auburn?
A I worked with my hands with my father.

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Q That would be 1995 --
A '95 to '96.
Q -- to '96, you worked with your father.
A Yes, sir.
Q And then after '96 forward, what did you do?
A Real estate.
Q When did you get your real estate -- but you got a salesman's license?
A Yes, sir, just a general salesman's license.
Q And when was that?
A 1996, 1997.
Q '96 or seven?
A Yes, sir.
Q And when did you get your broker's license?
A After my father's death, 2002.
Q Now, did you have any other regular job other than what you have told us so far?
A No, sir.
Q And you consider yourself now a what?
A I'm in the real estate business.
Q Now, do you basic -- Where is your office located?
A 1412 I-85 Parkway, Montgomery.

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Q 1412 I-85 Parkway.
A Correct.
Q And I think you had a card that's here.
A Yes, sir.
Q And the name of your business?
A Frank Thomas and Associates, LLC.
Q Frank Thomas and Associates, LLC. Do you own the building where your office is located?
A No, sir.
Q Who owns that building?
A John Collick (phonetic).
Q Are you leasing?
A Yes, sir.
Q And I think you've told me -- you've told me now all the places where you've been employed. Do you basically -- You know, some real estate companies manage property, some purchase and sell. Basically, what do you do as Frank Thomas and Associates, LLC?
A Well, I've got two -- I've got one broker under me and one agent under me. And we engage in, you know, assisting in the sale

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of real estate for others for a commission as well as I have purchased a large amount of real estate myself and occasionally sell.
Q Are you familiar with -- Now, in your real estate business, you purchase property in Macon County?
A Yes, sir.
Q Tell me the first piece of property you purchased in Macon County.
A I want to say it was 480 acres at Hardaway.
Q 480 acres at Hardaway?
A Yes, sir.
Q Approximately when was that?
A Around 2000.
Q About 2000. Do you still own it?
A No, sir.
Q Who did you buy it from?
A From a fellow named Mike Carter out of Trussville, Alabama.
Q Mike Carter?
A Yes, sir.
Q Trussville. And who did you sell it to?
A Parks Hollis from Montgomery, Alabama.

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Q **And what kind of land was this?**
A Farmland, timberland, general recreation track.
Q **Okay. What about the next piece of property you bought in Macon County as you recall?**
A Mr. Gray, I'm going to have a hard time in chronological order telling every piece that I've purchased and sold.
Q **I mean approximately.**
A I can just -- I would feel more comfortable going through a list of everything that I can recall that I've bought and sold in no particular order --
Q **All right.**
A -- if that's okay. I bought 200 plus or minus 19 acres on Highway 80 where your son Stanley is currently building a home and Sheriff David and Representative Warren currently live.
Q **When did you purchase that property, the 200 and some acres?**
A Again, I think I sold the property to your son three years ago, so it would have been

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four to five years ago.
Q **So, you purchased it about four or five years ago?**
A Again, I can't warrant dates on properties. I've bought a lot of property in Macon County. I'm going to give you the best I can.
Q **Let me try to -- so we'll understand each other. I understand about the dates. I just want you to, if you can, give me the best dates and the best events that you can.**
A Yes, sir.
Q **And I understand, and I'm not trying to get you to tie down to a specific month. But I would like a year if you know. And who did you buy the 219 acres from?**
A I believe his name is Oliver.
Q **Oliver. Now, is that the property that you subdivided or help subdivide?**
A Yes, sir. Well, that's -- No, sir. I mean, I've subdivided several tracts. That is a piece of property that I have subdivided.
Q **Well, what I'm talking about now is the**

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219 acres that you say you bought from Oliver.
A Uh-huh (positive response).
Q **Is that property -- Have you subdivided that or part of that?**
A Yes, sir, I have.
Q **Okay. And you say a part -- one of the lots you sold to the Sheriff?**
A Correct.
Q **Was title to that property in your name?**
A Yes, sir.
Q **And do you still own a part of the property out there?**
A Yes, sir.
Q **Is the title to that property still in your name?**
A Yes, sir.
Q **Okay. Another piece of property that you have bought going back as far as you can, as best you can, approximately when and where and what?**
A Five hundred and fifteen acres off County Road 68 near the old site of the New Mount

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Pleasant Baptist Church.
Q **County Road 68?**
A Yes, sir.
Q **Near where?**
A The New Mount Pleasant Church and a quarter of a mile south of Milton McGregor's personal farm.
Q **And you purchased that from whom?**
A From Mrs. Carol. I think her name was Margaret Carol.
Q **Approximately when?**
A 2002, maybe, 2003.
Q **Was title to that taken in your name?**
A Yes, sir. I owned a one-third undivided interest with John Coleman, who currently resides in Birmingham, and Jay Dowdell, who resides in Alexander City. He's my brother-in-law.
Q **John Coleman?**
A Correct.
Q **In Birmingham?**
A Yes, sir.
Q **What relation is he to you?**

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A Close friend. I'm the godfather of his daughter.
Q **And the other third is owned by whom?**
A Well, it's no longer owned by us. It was owned by Jay Dowdell, my brother-in-law, who married my sister.
Q **And have you sold that?**
A Yes, sir.
Q **Approximately when did you sell it?**
A I believe late 2004.
Q **And who did you sell it to?**
A Joe Whatley.
Q **Is that the lawyer in Birmingham?**
A No, sir. Former trucker out of Montgomery.
Q **Former trucker out of Montgomery. Okay. The next piece of property.**
A I bought a one-third undivided interest in approximately 364 acres.
Q **Where is that?**
A Shorter.
Q **Where in Shorter?**
A Halabama Drive and Main Sheet.
Q **Alabama –**

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A Halabama Drive and Main Street. It's the site where this building and my facility should go -- will go.
Q **It's a one-third –**
A Uh-huh (positive response).
Q **– interest in a 364-acre tract.**
A Correct.
Q **Who did you purchase that from?**
A Hugh Spegal.
Q **Do you still own the one-third interest in that tract?**
A I own three-thirds. Yes, sir. I own all of it at this point.
Q **All right. You now own all of the interest in the 364-acre tract?**
A Yes, sir.
Q **At Shorter?**
A Correct.
Q **And a part of that 364 acres consists of where you proposes to build a facility –**
A Correct.
Q **– to operate bingo.**
A Yes, sir.

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Q **And title to that property is in you?**
A Yes, sir.
Q **Title to the property is not in Macon County Investment, Inc.?**
A Macon County Investments has a contract pending.
Q **Well, I didn't ask you that. I'm asking whether the title was in Macon County Investment, Inc.**
A No, sir.
Q **Okay. So, title to the property on which you contemplate building the facility is in you individually.**
A For a second time, yes, sir.
Q **All right. All of it?**
A Yes, sir.
Q **Okay. And how long has the full title been in you?**
A Early 2004. Early 2004.
Q **Early 2004. Now, tell me – You started off telling me that you initially acquired a one-third interest in that property.**
A Correct.

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Q **And approximately when was that?**
A Maybe 2002.
Q **And who did you get that from?**
A Again, from Hugh Spegal.
Q **Hugh?**
A Spegal. You've already written it.
Q **Huh?**
A Hugh Spegal.
Q **And the other two-thirds interest you acquired from whom?**
A Jim Black. He's deceased now, but he lived in Atlanta.
Q **Jim Black in Atlanta.**
A He and Mr. Spegal were former brother-in-laws.
Q **And when did you obtain that two-third interest?**
A Again, I would say early 2004.
Q **Now, is this property located within the town limits of Shorter?**
A No, sir.
Q **Is any portion of the 200 or 300 and some acres located in the town limits of Shorter?**

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A No, sir.
Q Is the proposed site where you propose to operate bingo located in the city town limits of Shorter?
A No, sir.
Q Okay. Now, you say title to the property is in you and it is not in Macon County Investment –
A Inc.
Q – Inc. Okay. Thank you. I appreciate that.
A Correct. Yes, sir. For the third time, title is in my name personally.
Q Do you have a written contract from you to what you call an MCII?
A Correct. Yes, sir.
Q You have a written contract?
A Yes, sir.
Q May I see that contract?
A I do not have it with me.
Q Okay. There is a contract from you to MCII to purchase what?
A Don't hold me on the decimal points, but I

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believe it's 56 acres.
Q Is that the property that's located in the survey –
A Correct.
Q – that's attached to the application of MCII?
A Yes, sir.
Q What's the date of that contract?
A Again, I do not have it with me.
Q In your best judgment, what's the date of it?
A It was in the year 2005.
Q 2005. Do you mind making a copy of that available to us?
A No, sir.
MR. GRAY: Counsel, do you have any objections?
MR. THOMAS: We are producing in the normal discovery process.
MR. GRAY: All right. We want you to produce it.
Q Was the contract executed on or before July of 2005?

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A Yes, sir.
Q Before or after?
A Yes, sir. Before, I'm sorry.
Q All right. Is the contract notarized?
A I don't recall.
Q What's the sale price of the property?
A $10 million dollars.
Q $10 million?
A Yes, sir.
Q So, you are proposing to sell this – I think it was around 58 acres, more or less –
A I think it's 56, but the survey speaks for itself.
Q – for $10 million dollars?
A Correct.
Q And what's the terms and condition of the sale when it's to be closed out? Well, is it an option, or is it a sale?
A Well, by definition I guess it is a binding contract, per sè, but the contract is not valid in the event that Macon County Investments is not allowed to move forward

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with their --
Q It's a binding contract.
A It's a binding contract contingent on Macon County Investments being approved as a qualified location.
Q Now, at the time you participated in the application of Reach One Teach One on behalf of, I take it, MCII, in that application, did you disclose the fact that title to this property was in you and that you had a sales agreement to MCII?
A I personally did not assemble the application. Attorney Greg Carr did. So, I cannot answer that question.
Q My question --
A I do not know.
Q – was: Are you familiar with the application?
A I am, but I do not know if a copy of the contract is in the application.
Q If you would review that application, you could determine whether or not it was there.
A I feel certain that I could, yes, sir.

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Q **In preparation for this deposition, haven't you gone through that application, Mr. Thomas?**
A No, sir.
Q **You've not gone through it at all?**
A No, sir.
Q **When was the last time you read it?**
A Probably a month ago.
Q **You have read it?**
A Yes, sir.
Q **And you have gone through it?**
A Yes, sir.
Q **And you know there are certain things in it?**
A Yes, sir.
Q **And you know there isn't a contract in it between you and the company?**
A No, sir, I do not know there isn't a contract in it. I told you that I did not have the application with me, and I just answered the question as I did not know if there was a copy of the contract in the application. So, I'm going to answer the same way.

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Q **All right. Well, if you had an application – if you had a contract to sell, would you have included that contract in the package?**
A Again, I'm going to state as I just stated. Attorney Greg Carr prepared the application. I signed where I was supposed to sign. I did not personally assemble the application. That's a clerical task, and I'm not good at that type thing. Greg Carr assembled the application, and I signed where I was supposed to. I remarked earlier that I'm not certain if the contract is or is not in the application. If the application required for a contract to be in it, I feel certain that it is in there.
Q **Okay. Wouldn't you think that if the Sheriff was going to be able to act intelligently on this that he would need to know whether or not there was a contract or exactly what the title is on the property?**
MR. THOMAS: We're going to object on the basis it calls for him to have

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a mental operation for the Sheriff.
Q **Do you think it would be necessary as a businessman to be included in the package?**
MR. THOMAS: If you have an opinion, you can give it to him.
A My honest opinion?
Q **Yes, sir.**
A The Sheriff has never read the application, so I don't think the Sheriff could have an honest, intelligent decision based on anything in that application because I personally don't think he's ever read it.
Q **So, you're just saying you don't think he read it.**
A I was allowed to give my opinion, and that's my opinion.
Q **All right. How did you arrive at the sale price of $10 million dollars for the 58 acres?**
A It sounded like a good number, and a piece of property in Shorter had sold three-and-a-half acres without access to the

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sewer for a little under four ($4) dollars a foot. I have two road frontages. I have sewer. And depending on how the users choice works of Alabama Power, I would possibly have Alabama Power versus Tuskegee Light and Power, who was at that time in receivership. I felt that my property was more valuable. It was a larger tract of land. It had a lot of road frontage. And so, I simply took the four ($4) dollars a foot and did the best I could to estimate the value.
Q **What did you pay for the land, the 300 and some acres?**
A I paid I believe a hundred and thirty thousand ($130,000) dollars for the one-third interest. And then I think I paid a million dollars for the two-thirds interest.
Q **Okay. A hundred and thirty thousand ($130,000) for the one third.**
A Yes, sir.
Q **And a million dollars for the --**

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A Two-thirds.
Q Two-thirds. And who did you pay the million dollars to?
A Again, to Jim Black, who is deceased but was a resident of Atlanta.
Q Did you pay that in cash?
A I financed the property. It was paid with a cashier's check or bank check.
Q All right. Which bank did you finance it?
A Colonial Bank.
Q And I take it that loan has been paid off now?
A No, sir.
Q It's still outstanding?
A Yes, sir.
Q Is that a mortgage on this property that you propose to use to build the facility on?
A Yes, sir.
Q Colonial Bank --
A Yes, sir.
Q -- has a mortgage from you to it for how much?
A I believe it's eight hundred and fifty

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thousand ($850,000) dollars, but I think they've got a couple of more tracks involved in that loan as well.
Q Several other tracts?
A Yes, sir. I believe two, but I'm not dead certain.
Q And when is that mortgage due?
A It's an interest-only loan. I'm not certain of the date.
Q What is an interest-only loan, for the record?
A It's due when the interest is due. Again, I have lots of loans and mortgages. I'm not certain the specific date that the interest is due.
Q Have you ever been involved in any litigation?
A Yes, sir.
Q Have you sued anybody?
MR. THOMAS: Other than this lawsuit?
Q Yeah, other than this one.
A Yes, sir.
Q You're not a party to this lawsuit, are you?

[39]

A Macon County Investments, my company, is a party. And as the president, I would assume that I am a party. But I have no law background, so...
Q So, your name is Frank Thomas.
A Correct.
Q Is Frank Thomas a plaintiff in this lawsuit?
A No, sir. But Frank Thomas is being deposed.
Q Well, I understand.
MR. THOMAS: Just answer his question.
A Yes, sir.
Q Okay. And you are the president. I'm not trying to hide the fact that you are president of MCII.
A Correct.
Q Isn't that correct?
A Yes, sir.
Q Okay. So, you have been sued or you sued somebody, which?
A Both.
Q All right. Well, tell us about the suit that you've been involved in that you brought.

[40]

A I filed a lawsuit against an individual named Jeff Lewis. I feel that it was filed maybe six to nine months ago.
Q Where?
A In Montgomery.
Q What's the type case that is?
A Specific performance on a contract.
Q What kind of contract?
A Real estate.
Q And where is the real estate located?
A 2193 Woodley Road. Actually, it's the two lots. I had it replatted and now it's two lots that front Allendale.
Q Okay. Have you -- Has that lawsuit been completed?
A No, sir.
Q It's still pending.
A Pending.
Q Okay. Any other suit that you've been involved in?
A I was --
Q Who's your lawyer in that suit?
A Greg Carr, Gregory Carr.

[41]

Q **Gregory Carr. The same lawyer you said who prepared the application that's involved here.**
A Correct. Correct.
Q **Okay. And the other suit you're involved in litigation wise.**
A Currently in a pending lawsuit regarding plus or minus 40 acres of land in Wetumpka, Alabama.
Q **Are you the plaintiff or defendant?**
A Co-defendant.
Q **Give me the style of that case.**
A Back in --
Q **The style of the case. Who is suing who?**
A Explain legally "the style."
MR. THOMAS: Names of the parties.
A Okay.
Q **Give me the plaintiff's name.**
A That's better. Mason Paskell Hill and myself.
Q **Mason --**
A Mason P. Hill.
Q **-- P. Hill and Frank Thomas.**

[42]

A Correct, the Third.
Q **The Third. Versus who?**
A I believe Jack and Shirley DeVenney.
Q **Jack and Shirley --**
A D-E-V-E-N-N-E-Y.
Q **Now, is that a suit for performance of a contract or breach of contract or what type of suit?**
A It's a suit where they are trying to enforce the assignment of a contract.
Q **And where is it pending?**
A In Elmore County.
Q **Elmore County. So, now you are suing to enforce a contract.**
A Correct.
Q **That's what you're saying?**
A Yes, sir. Excuse me. Let me answer that. I am suing to enforce a contract in Montgomery County with Jeff Lewis. We are being sued over the assignment of a contract in Elmore County with Jack and Shirley DeVenney.
Q **All right. Let me go back and try to finish**

[43]

this one up. So, Mason Hill and Frank Thomas are defendants, not plaintiffs, in the case in Elmore County?
A That's correct.
Q **And who are the plaintiffs?**
A Jack and Shirley DeVenney.
Q **Okay. So, they are suing you for specific performance of a contract.**
A No, sir. I own the property now, so the contract was -- I mean, I currently own the property.
Q **What are they suing for? What are they asking for in the suit?**
A Well, again, this is going to be my opinion. The property was contracted from Jack and Shirley DeVenney to Mason P. Hill in -- I'm going to say -- 2002. Mason closed the property. An individual by the name of David Eason borrowed proceeds from the sellers at the closing.
Q **Are they suing you for damages?**
A Yes, sir.
Q **Okay. Now, the other suit that you have**

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pending --
A No other suit is pending other than this one.
Q **Let me go to the suit I thought you told me that was pending in Montgomery County.**
A Uh-huh (positive response).
Q **And I wanted to be sure we have the identity of the parties. Who is bringing that lawsuit?**
A Frank Thomas, the Third.
Q **You are the plaintiff in that.**
A Correct.
Q **And who is the defendant in that?**
A Jeff Lewis.
Q **And that's pending in the Circuit Court of Montgomery County.**
A Correct.
Q **Are you involved in any other pending litigation other than the one that's here --**
A No, sir.
Q **-- and these two.**
A No, sir.
Q **Are there any judgments outside --**

[45]

A Excuse me. Let me correct you. I have filed a lawsuit in my name against Bama Rail Car.
Q All right. Let's have that suit.
A I don't know if it's been filed yet or not.
Q What is it?
A Bama Rail Car. B-A-M-A, Rail Car.
Q So, it would be Frank Thomas versus --
A Bama Rail Car.
Q -- Bama Rail Car.
A Yes, sir.
Q Is that a corporation, or is that a person's name?
A I'm not certain that it's a corporation, but I am certain it's not a person's name.
Q And where is that suit pending?
A If it has been filed, it is pending in Macon County.
Q Macon County. And what's that suit about?
A It's about a trespass.
Q It's a suit against Bama Rail Car for trespass?
A Correct.

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Q For trespass on what?
A I've not actually read the suit. I've signed the agreement with Bryan Strength of Jock Smith's firm.
Q Signed an agreement with the firm to do what?
A To file a lawsuit.
Q All right. For trespass. What are you claiming? Are you claiming somebody trespassed against your land or what?
A Correct. And, again, I've not read the actual suit itself, so I'm going to have a hard time commenting on it.
Q Well, I understand that, but I'm just -- You told them what the lawsuit was about.
A Correct.
Q Has somebody trespassed on your property --
A Correct.
Q -- is that what you're saying?
A Correct.
Q And where is the property that was involved?
A In Macon County.
Q Where?

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A Adjacent to the CSX rail line, Shorter, Alabama.
Q Is that a part of the 300 and some acre tract --
A No, sir.
Q -- that's involved in the litigation?
A No, sir.
Q That's some other property you own.
A The 300 and something acre tract is not involved in the litigation. I think a 56-acre parcel of a 364-acre tract is involved in the litigation. I just want to make sure. I think that's correct.
Q The property that you're saying that's involved in the litigation against Bama Rail Car --
A Correct.
Q -- is a part of or is it not a part of the 300 and some acres?
A No, sir.
Q Is it adjacent to that property?
A Yes, sir.
Q That's another piece of property that you own in Macon County.

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A Correct.
Q Now, are you involved in any other litigation?
A No, sir.
Q Do you have any other threatened litigation that you know about?
A No, sir.
Q Another suit that you plan to file?
A At this time, no, sir.
Q Do you know and have you been informed of anybody who has threatened to file a lawsuit against you?
A No, sir.
Q Did you tell us about all the pieces of property you own in Macon County?
A No, sir.
Q What other pieces do you own?
A Currently or have I traded?
Q That you own now.
A Plus or minus 652 acres at Hardaway.
Q All right. When did you buy that?
A Incrementally from 2002 through maybe 2005.

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Q And who did you buy that from?
A A.S. Coleman, Junior, Sid Coleman.
Q How much did you pay for that?
A It was bought incrementally, and I really can't give you a definite answer.
Q When did you buy it? In 200 --
A It was bought incrementally from 2002 to 2005.
Q And you still own it.
A Yes, sir.
Q Is there a mortgage on that one?
A Yes, sir.
Q Who do you --
A Federal Land Bank of Alabama.
Q Federal Land Bank of Alabama?
A Uh-huh (positive response).
Q How much is that mortgage?
A Five hundred thousand ($500,000) dollars, I believe.
Q Five hundred thousand ($500,000) dollars. Do you have a financial statement?
A Yes, sir.
Q Can you make that available to us?

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MR. THOMAS: We are going to object to that on the basis of relevancy.
Q Does MCII have a financial statement?
A No, sir.
Q Does it have a bank account?
A No, sir.
Q Does it own any assets?
A No, sir.
Q So, MCII has no assets at all?
A At this time, no, sir.
Q Does it have any liabilities?
A I guess it has liabilities in the amount of the money that I have invested yet have not asked for in return.
Q How much have you invested and not asked for in return?
A I haven't stopped to add it up, so I have a hard time.
Q Best judgment.
A Probably a million and a half.
Q A million and a half dollars that you have spent?
A Yes, sir, if not more.

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Q And you spent that for what purpose?
A To get to this table.
Q You spent that for MCII?
A Yes, sir.
Q But you didn't put the money in MCII --
A No, sir.
Q -- and MCII put it out. You have put the money out yourself?
A I started spending money probably in 2004 for the purpose of forming a bingo facility in Macon County, and MCI didn't form.
MR. THOMAS: You're not listening to the question.
THE WITNESS: Sorry.
MR. THOMAS: You have to answer his question.
Q So, MCII has never had a bank account, has it?
A No, sir.
Q It has never owned any real estate, has it?
A No, sir.
Q It has never owned any personal property, has it?

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A No, sir.
Q It has never owned any assets at all, has it?
A No, sir.
Q Now, who are the shareholders in MCII other than you?
A Greg Carr.
Q Is that the lawyer who prepared your papers?
A Correct.
Q Did he put any money in the corporation?
A No, sir.
Q What was the consideration for you taking back the shares of stock?
A Explain that question.
Q Well, you filed articles of incorporation for MCII, didn't you?
A (Nodding in the affirmative.)
Q And you took back stock.
A Yes, sir.
Q How much money did you pay the corporation for that stock? Isn't it a fact, Mr. Thomas, you didn't pay them anything?
A I've paid no cash to Macon County

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Investments, Incorporated.
Q But you took the stock back, but you didn't put the money in the corporation; isn't that right?
A I put no cash in Macon County Investments Incorporation.
Q Okay. And the same things is true with Mr. Carr. He's a share holder. He received stock. But he didn't put any money in the corporation either, did he?
A I can't answer for certain what Mr. Carr has or has not done. But I'd have to -- you would have to ask Mr. Carr that question.
Q Aren't you the president of the company?
A Yes, sir.
Q And didn't you say they don't have any assets?
A He's the treasurer, Mr. Carr is.
Q Yeah, but you said it doesn't have any assets. You know that.
A To my knowledge.
Q Okay. Then if he had put the money in there, you would have known about it,

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wouldn't you?
A I can't answer that definitely I would have known.
Q All right. But you do know no money has ever been in that corporation. No money is in the corporation now, and no money was in the corporation at the time the application was filed; isn't that correct?
A I would say that would be correct.
Q Thank you. Don't you have some outstanding judgments against you?
A Judgments against me?
Q Yes, sir.
A Not that I know of, no, sir.
Q You don't have any judgments?
A Not that I know of.
Q And you're sure you don't have any judgments?
A Not that I know of.
Q Is your name Frank Thomas, the Third?
A Yes, sir.
Q Do you know Brennon J. Bernard, Junior?
A No, sir.

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Q Do you know James Barganier?
A Yes, sir.
Q As a matter of fact, James Barganier is the – Is he the architect or the proposed contractor for this facility?
A He is an architect.
Q And don't you have in the package of material that MCII has filed a statement from him in support of this application?
A Yes, sir.
Q And didn't he sue you in the Circuit Court?
A No, sir.
Q Okay. Okay. Are you a co-defendant in a case with him where David Milligan and Lisa Milland versus Frank Thomas?
A We were.
Q And isn't it a fact that there was a judgment of one hundred and five thousand, six hundred twelve dollars and ninety-seven ($105,612.97) obtained against you?
A That was correct.
Q And you just told me you didn't have a judgment outstanding, didn't you?

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A The judgment was paid. It's not outstanding.
Q It's not outstanding.
A No, sir.
MR. GRAY: All right. Mark that.
A Please mark that because the judgment was paid in full.
MR. THOMAS: You've already testified to that.
(At which time, the referred-to document was marked as Defendant's Exhibit No. 1 by the Reporter.)
MR. GRAY: I'm going to show it to you before I show it to him.
MR. THOMAS: Thank you.
Q Let me show you Defendant's Exhibit One and ask you whether or not that's a certificate of judgment in the case where you and Mr. Barganier were sued and there was a judgment rendered against you.
A It appears to me that it is, yes, sir.
MR. GRAY: We offer that as Defendant's

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Exhibit One.
MR. THOMAS: We object to it. It has no relevancy whatsoever.
A It's been paid.
Q When did you pay that?
A Very soon after the judgment was, I guess, awarded or granted or whatever the proper terminology would be.
Q When was -- What was this lawsuit about?
A The house at 2113 Allendale Road where I currently reside.
Q Do you have any other -- Have you been involved in any other lawsuits?
A No, sir.
Q Which I thought I had asked you whether you had been involved in any.
A What you asked me is was I involved in any. And you asked me specifically about the two, and you never asked me to continue.
Q Thank you. Have you ever been involved in any other lawsuits other than these three that you've talked with us about?
A Yes, sir.

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Q Tell us about the other lawsuits you've been involved in.
A I was sued by James Braswell.
Q James?
A Braswell.
Q Braswell?
A In Montgomery.
Q When was that?
A It was -- The case was settled 90 days ago.
Q Approximately when was it filed?
A I don't know when it was filed.
Q James Braswell versus who?
A Frank Thomas, the Third.
Q Frank Thomas, the Third. And that was in the Circuit Court of Montgomery County or where was it?
A Judge Reese's courtroom, yes, sir. Judge Reese.
Q And who represented you in that one?
A Myself.
Q And what was that suit about?
A Involving a private roadway in Lake Ridge subdivision in Montgomery County.

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Q And you say it has been settled?
A I was awarded the lawsuit. I won.
Q Was there a trial?
A Yes, sir.
Q What was the dispute about?
A A private roadway in Lake Ridge subdivision in Montgomery County.
Q And Mr. Brown (sic) was claiming damages against you in that lawsuit?
A No, sir.
Q What was he claiming -- what was he asking for?
A Mr. Brown was claiming nothing in that lawsuit.
Q I thought he filed a suit against you?
A No, sir.
Q You filed a suit against him?
A No, sir.
Q I'm sorry. I missed it.
A The fellow's name was James Braswell, as I stated earlier. There was no Mr. Brown.
Q Okay. Who was the plaintiff in the suit?
A Mr. Braswell.

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Q And who was the defendant in the suit?
A Frank Thomas, the Third.
Q And what was the suit for?
A Involving a private roadway in South Montgomery County.
Q Was it for damages?
A He was suing asking that I repave a private roadway in South Montgomery County.
Q Was that one of your developments?
A It's my only development.
Q Okay. So, you had a development, and there was a question about you'd promised to -- at least the plaintiff claimed you promised to pave a road.
A Correct.
Q And you claim, I take it, you didn't promise to pave a road.
A No, sir.
Q But it did come out of your developing a subdivision.
A No, sir.
Q The lawsuit arose out of that?
A Yes, sir, that would be correct.

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Q **Okay. And that matter has been resolved.**
A Correct.
Q **Are there any other lawsuits that you have been involved in?**
A No, sir.
Q **Any other judgments outstanding against you?**
A I would ask you to restate that question because there are no current judgments against me.
Q **Have you ever had a judgment rendered against you other than this one judgment?**
A No, sir.
Q **Okay. Have you ever been involved in any other lawsuits other than the ones you've told us about?**
A No, sir.
Q **Just for the record, please tell us any other litigation you have been involved in other than the ones you've told us about and the one that's pending here.**
A I can't recall that there is any other litigation.
Q **Have you ever filed bankruptcy?**

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A No, sir.
Q **Have you filed any type of protection for release under the Bankruptcy Act?**
A No, sir.
Q **Have you ever given a deposition before?**
A Yes, sir.
Q **In what cases you've given depositions?**
A I was given -- I have given a deposition in the case in Elmore County with the DeVenney family. I also gave a deposition in a case where I was a witness in Montgomery County in the office of Jere Beasley.
Q **Any other?**
A Not that I can recall, no, sir.
Q **Okay. Have you ever been arrested?**
A No, sir.
Q **Have you ever been convicted of any crime?**
A No, sir.
Q **Have you ever been convicted of any offence at all?**
A Offence?
Q **Yeah.**
A What's -- traffic -- What is an offence?

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Q **Any traffic offence?**
A Yes, sir.
Q **What type of traffic offence?**
A I can't -- speeding.
Q **What about DWI -- alcohol related?**
A I was arrested and was -- To go back to answer the question, I was arrested and was not guilty. It never went to court. It went away.
Q **I asked you earlier, Mr. Thomas, whether you were arrested, and you said no.**
A Yes, sir.
Q **Now, you're saying you were.**
A I'm thinking through my answer.
Q **When were you arrested?**
A 2002 or '03.
Q **Where?**
A In Montgomery County.
Q **For what?**
A For failure to stop at a stop sign, and, I guess, suspicion of DUI.
Q **Were you charged with DUI?**
A No, sir.

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Q **But they arrested you any way?**
A I don't know if I -- I assume that, yes, I was charged but --
Q **You were charged.**
A Correct.
Q **Did you go to court?**
A Yes, sir.
Q **Was the case tried, or did you settle it, or what happened to the case?**
A It was tried, and I was, I guess, found innocent at the end.
Q **Okay. Innocent of DUI or innocent of the stop sign or innocent of everything?**
A I believe I was found guilty of the stop sign and innocent of the DUI.
Q **Okay. Have you ever been treated for any addiction?**
A No, sir.
Q **Alcoholism?**
A No, sir.
Q **Drugs?**
A No, sir.
Q **Gambling?**

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A No, sir.
Q Now, are you familiar, generally, with gambling, legal gambling in Macon County?
A That's a tough question. I thought that I was, but I don't know if anyone is familiar with legal gambling in Macon County truly.
Q So, is your answer you're not familiar with it?
A I'm familiar with the rules and regulations in Macon County. But as far as the process, the auditing of such, I don't know if there's anyone who's familiar with that.
Q Okay. Do you know whether or not there is a facility in Macon County where you can legally participate in parimutuel gambling?
A Yes, sir, I do.
Q And where is that?
A It's at, I guess, Victoryland.
Q You're familiar with Victoryland?
A Yes, sir.
Q You've been out there, or have you?
A I went during college, but have -- probably not so welcome now. I did go back about --

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I'm finishing. I went about a year ago, maybe a year-and-a-half ago, and I walked through the offices at Victoryland and asked for information.
Q My question is simply: Have you ever been to Victoryland?
A Yes, sir.
Q When was the first time you went to Victoryland in your best judgment?
A Probably in 2000 -- excuse me -- 1994.
Q And when is the last time you went to Victoryland?
A I was in the parking lot the day before yesterday.
Q In the parking lot?
A Yes, sir.
Q What were you doing in the parking lot?
A Taking pictures.
Q Pictures of what?
A Of the GE profile temporary units that Victoryland is currently using for their gaming trailers.
Q All right. Anything else?

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A No, sir.
Q Did you play any role at all in the passage of the law which permitted parimutuel gambling at Victoryland back in the '80s?
A No, sir.
Q Did you play any role at all in the passage of the proposed constitutional amendment that permits bingo in Macon County?
A No, sir.
Q Did you play any role in the -- in connection with the citizens voting on authorizing a constitutional amendment which permitted bingo in Macon County?
A No, sir.
Q When did you first become interested in becoming a bingo operator?
A Late 2003 right after bingo passed.
Q Late 2003?
A Yes, sir.
Q Why did you want to be a bingo operator?
A Well, I had watched the traffic since I first purchased land in Macon County in the late -- I guess maybe the late '90s or early

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2000s, whenever I bought my first tract. And I had watched the traffic at Victoryland continue to decrease. And I attributed that to the coastal casinos and the casinos on the Mississippi state line. As I talked to Pebblin Warren on their property that same time, then bingo --
Q Let me be sure that -- I thought my question was --
A When did I first become interested in bingo.
Q Yeah.
A And I'm telling you.
Q If you can tell me a date. I'm not interested in everything that happened around that date, I just want to --
A Late 2003.
Q Late 2003.
A After -- bingo was ratified --
Q After --
A -- by the Macon County citizens.
Q Okay. After bingo had been authorized?
A Correct.
Q Now, was that before bingo had actually

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started or after bingo had started?
A I would say that I became interested after it had started.
Q Okay. And you saw the traffic increase, didn't you?
A Yes, sir.
Q It increased tremendously, didn't it, from what it had been when you say it went down and you attributed that to the casinos.
A I wouldn't say -- I saw a traffic increase.
Q All right. You saw a traffic increase. Okay. Did you see a traffic increase?
A At what point?
Q Did you see a traffic increase after bingo started?
A Yes, sir.
Q Did you go out there after bingo started to really see the operation itself?
A Within what time line?
Q About the time when you saw it increase.
A Did I go out as in did I go in -- I mean, clarify your question.
Q I just want to know did you go to the

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facility after they started operating bingo. If so, tell us the first time you went out.
A Early 2004.
Q Okay. Early 2004. And you -- Was that before or after you became interested in becoming an operator?
A It was after I became interested.
Q I notice you are a real entrepreneur, aren't you?
A I try to pay my bills.
Q And you like to make money.
A Yes, sir.
Q Isn't that right? And you thought they were making money from bingo at Victoryland, didn't you, with bingo?
A I assumed it was profitable, yes, sir.
Q And you wanted to get involved in the business because it's profitable; isn't that right?
A That's correct.
Q And that's why you got involved. And the reason you are interested in this whole thing is you want to make money out of

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bingo; isn't that correct?
A Not the sole reason, no, sir.
Q That is a reason; isn't it?
A It is a reason.
Q All right.
A Shall I elaborate on the other reasons?
Q No, sir. Your lawyer will let you do that. But the driving force for you from all your testimony has been money and earning money; isn't that correct?
A That's not correct.
Q All right.
A I got involved --
Q I don't have a question pending.
A Okay.
Q After you became interested in bingo, and after you became -- And you say you became interested in becoming an operator of bingo in early 2004; is that right?
A Correct.
Q What did you do in early 2004 -- When did you decide that you were going to try to become an operator of a bingo facility in

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Macon County?
A The minute I saw the traffic increase at Victoryland in late 2003, early 2004.
Q Okay. Why did you want to be an operator?
A I felt it could be profitable, and I felt I could help Macon County.
Q Now, you knew that Macon County Greyhound Park was a facility where bingo was being operated, didn't you?
A At what point?
Q After they -- after the bill passed. After constitutional amendment had been approved and you said the traffic started increasing when bingo started.
A Well, I didn't know that it was going to be a bingo facility after the constitutional amendment was approved. I did know after the traffic started, which was after, apparently, Victoryland became the only qualified location at that point.
Q Did you ever talk to Mr. McGregor about the possibility of becoming an operator or what he had done in order to become an operator

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or what Victoryland had done in order to become an operator?
A I spoke to him one time at the beach.
Q **About becoming an operator? That's what my question is.**
A I believe that we discussed another institution that was working to become an operator, and I believe I expressed my interest to become an operator.
Q **You expressed an interest to Mr. Milton McGregor to become an operator.**
A I don't know if I would have defined it as an operator. I feel that I expressed my interest in bingo in Macon County.
Q **Interest in bingo.**
A Yes, sir.
Q **And when was that?**
A Summer of 2004.
Q **Summer of 2004. And where was this?**
A In Orange Beach.
Q **Where in Orange Beach?**
A At the Flora-Bama.
Q **At the --**

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A Flora-Bama.
Q **What is the Flora-Bama?**
A It's a restaurant, bar, lounge.
Q **Was this just a casual conversation, or how did it develop?**
A I've known Mr. McGregor for probably 20 years. I went to school with his daughters at Montgomery Academy. And I've always spoken with --
Q **My question is: Was this just a casual -- where you just accidentally met there? He was there, and you were there?**
A That's correct.
Q **It wasn't anything planned.**
A No, sir.
Q **You never sought an appointment with him and discussed with him about the possibility of becoming an operator of bingo in Macon County in that type setting, did you?**
A The rules didn't instruct me to talk to Milton McGregor about becoming an operator in Macon County. I have not gone to Mr. McGregor to discuss about being an

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operator in Macon County, no, sir.
Q **Is that a no?**
A No.
Q **Okay. That's all I was asking.**
MR. THOMAS: Just listen to his question, and just give him his answer. That's all you have to do.
Q **Well, speaking of the rules, you were familiar with -- When did you first become familiar with the rules after bingo started the first time?**
A Mid-2004.
Q **2004.**
A Yes, sir.
Q **Did you in mid-2004 file an application --**
A No, sir.
Q **-- either as a charity to operate bingo?**
A No, sir.
Q **Did you file an application or with a charity to become an operator of a bingo facility?**
A No, sir.

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Q **You could have done that if you had wanted it, could you not, in mid-'04?**
A I would assume I could, yes, sir. I could have.
Q **All right. Nothing in the rules and regulations which would have prevented you from doing what you did in '05 and '04 if you had elected to do it; isn't that correct?**
A I just don't feel that I was ready personally at that time, no, sir. There's nothing in the rules to prevent me from filing an application.
Q **You weren't ready then. So, you waited until you got ready. And I take it you thought you were ready when you filed -- or was a part of filing the application in July of 2005.**
A No, sir, that's not true.
Q **You didn't think you were ready then?**
A I knew I was ready. I thought I was ready a lot sooner.
Q **Now, are you -- I've been asking you some**

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questions about your interests. When did MCII become interested in being an operator of bingo?
A Well, MCII operated as a de facto corporation for late 2004 and early 2005. So, in that sense, I feel that Macon County Investments became interested in mid-2004.
Q What do you mean the de facto corporation?
A It was not yet formed as a formal corporation.
Q So, it was formed in your mind; is that what you are telling me and telling the Court?
A Correct.
Q You had in mind forming a corporation. And when did you have that in mind initially the first time?
A I never had the intent to form it personally, so --
Q I'm just asking you when.
A Late 2003, early 2004.
Q Okay. So, that would have been about the same time you saw the traffic increasing at Victoryland after bingo had started.

[78]

A It would have been after.
Q Okay. There was nothing, Mr. Thomas, was there, to prevent you from filing an application to participate in bingo at any point from the time that the referendum was passed up until the time you filed an application --
A Yes, sir.
Q -- with MCII?
A There was.
Q What was there to prohibit you from doing it, from filing it?
A There was no application.
Q What do you mean there was no application?
A There was no paperwork. There was no formal application to fill out.
Q You're saying that the Sheriff's Office did not have applications before July of 2005?
A I'm not saying they didn't have them before July of 2005, but I'm not saying that they had them during '04 or early '05.
Q Do you know whether they did?
A The Sheriff's Office would not give me one.

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Q The Sheriff's Office would not give you an application?
A Correct.
Q I'll get to that in a minute.
A Okay.
Q Who at the Sheriff's Office wouldn't give you an application?
A David Warren.
Q When did you ask him for an application and he wouldn't give you one? Give me the date.
A It would be after January and before July of 2005.
Q Did you ask David Warren for an application to operate bingo in 2003?
A No, sir.
Q Did you ask David Warren for an application to operate bingo in 2004?
A No, sir.
Q Did you ask David Warren to give you an application to operate bingo in January of 2005?
A No, sir.
Q In January of 2006 -- or February of 2005,

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did you ask him for an application?
A Me personally, no, sir.
Q Did you ask him for an application in April of 2005?
A No, sir.
Q In March of 2005?
A No, sir.
Q When did you ask him for an application, and he denied it?
A It would have been late April or early May. So, your April question, I can't define the exact date, but late April or early May.
Q And where was it you asked him for an application, and he denied -- he refused to give you one? Where was he?
A I believe it was on the telephone.
Q On the telephone?
A Yes, sir.
Q You asked him on the telephone to give me an application, and he said, no, I won't give you one. Is that what happened?
A No, sir.
Q Did you call him or he call you?

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A I don't recall. I feel I probably called him.
Q You called him.
A He may have returned my call.
Q Did you call him at home or call him at the office?
A It would either have been his mobile phone, at home or at the office.
Q You asked him for an application, and he said, I'm not going to give you one. Is that the way he did it?
A I believe there was no application for a qualified location was the problem. It was not a charity application.
Q Did you ask him for an application period?
A Yes, sir.
Q When did you ask him the first time for an application?
A It would have been April or May.
Q Of what?
A Of '05.
Q And what kind of application did you ask him for?

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A A license for -- an application for a Class B bingo license as well as a qualified location.
Q And he would not give you an application for a Class B application. He refused to give it to you over the phone.
A I don't know that he refused over the phone. I believe it was the existence of the qualified location application that was the problem.
Q So, when you say he refused to give you an application, the Sheriff never refused to give you an application, did he?
A I guess he could not produce an application. So, to say he said, "Mr. Thomas, I refuse you the opportunity of an application personally," no, he did not.
Q Did you ever go to the Sheriff's Office and request an application?
A Yes, sir.
Q When?
A April, May, June.
Q Are you saying --

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A Several times.
Q Well, let's take the first time. Let's take them one by one. In April, you went to the Sheriff's Office; is that right?
A It may have been May or late April, but, yes, sir, in the -- in the late spring of 2005.
Q Late spring of 2005. And you are saying -- When you said late spring, what months are you talking about?
A April, May.
Q April or May. Who did you specifically ask at the Sheriff's Office for an application?
A The lady at -- when you walk in the door to your immediate right, if you continue walking forward, she would be at approximately five o'clock.
Q And what did you say to this lady?
A I asked for an application for charity bingo in Macon County.
Q And what did she say?
A That she couldn't give me anything.
Q And what did you say?

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A Why?
Q And what did she say?
A That she couldn't give me anything.
Q Did she say why?
A No, sir.
Q Do you know her name?
A There's a lady by the name of Mary that's there, but I don't know if that's her. There are two women that work in the front office, and I just know one of their names is Mary.
Q Well, were you talking to Mary?
A I don't recall.
Q Did Mary refuse to give you an application?
A I don't recall which lady it was.
Q Did you ask him for a copy of the rules and regulations?
A Yes, sir.
Q Did they give you a copy?
A No, sir.
Q What did they tell you?
A They would never give me anything when I went to the Macon County Sheriff's Office.

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Q **Did they give you any reason why they wouldn't give you any of that?**
A No, sir.
Q **What did they say?**
A Nothing.
Q **They said nothing at all?**
A They would always say, "You have to talk to the Sheriff," or simply avoid me.
Q **Okay. They told you you had to talk to the Sheriff. And your best recollection is these conversations started either in April or May of 2005, right?**
A They could have started as early as March. But it would have been -- yes, sir. It would have been the mid to late spring of 2005.
Q **You knew there were charities who had been participating in bingo, didn't you?**
A Correct, yes, sir.
Q **And you knew that people were getting applications, didn't you?**
A They would have had to have gotten applications, yes, sir.

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Q **And you're telling this Court that you went out to the Sheriff's -- to the jail on more than one occasion in April or May, asked for an application, and they wouldn't give you one?**
A Yes, sir.
Q **They told you to see the Sheriff?**
A Yes, sir.
Q **And then you said that the -- okay. That the Sheriff wouldn't give you one either.**
A No, sir.
Q **Why did the Sheriff -- Did the Sheriff tell you why he wouldn't give you an application?**
A I really had a hard time at a point in the late spring getting in touch with the Sheriff.
Q **You were at the Sheriff's deposition the other day, weren't you?**
A Yes, sir.
Q **You heard everything he said.**
A Yes, sir.
Q **Didn't you hear him say that he offered and told you to abide by the rules and**

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regulations and offered you an application, made them -- to tell you that they were available?
A I did hear him say that.
Q **Are you saying that the Sheriff denied you an opportunity to get a copy of an application. Is that your testimony to this Court?**
A The Sheriff's Office.
Q **Well, I'm asking you about the Sheriff now.**
A If you would just please restate your question.
Q **Did the Sheriff ever refuse to give you an application to participate in bingo?**
A Yes, sir.
Q **When?**
A Between March and May of 2005.
Q **Where?**
A As I stated earlier, it was on -- we discussed, I believe it, on the -- We were on the telephone. And I'm not certain if he was at home or at the office on his mobile because I would call him on all of the

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numbers. I talked to him a fair amount during that time. And I don't recall exactly what he said, but it was the fact that the existence of the licenses is how I viewed the denial.
Q **Said what?**
A The fact that when I would go to the Sheriff's office, if that's where it was held, I was turned away every time with one reason or the other.
Q **So, you never were able to get a copy of the application?**
A Personally, no, sir.
Q **Well, who got it?**
A Greg Carr.
Q **When and where did Greg Carr get one?**
A I'm not certain.
Q **When did you first learn that he had one?**
A The latter part of the spring, maybe end of May, June.
Q **Let me ask you this: Do you know Mr. Walker?**
A Yes, sir.

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Q Who is he?
A He is the head of a charity Reach One Teach One of America and a friend of mine.
Q What relationship -- What relationship does he hold with Teach One Reach One (sic)?
A He's the head of the charity.
Q When did you first meet him?
A In the spring of 2005.
Q In the spring of 2005.
A Yes, sir.
Q What month?
A It would have been the late spring, early summer, the same months: April, May, June of 2005.
Q Did you say April was the time you met him?
A No, sir. I said the late spring, early summer.
Q Give me one of the months, please, sir.
A I can't define the exact month.
MR. WALKER: May.
Q Mr. Walker said "May." Would you accept his answer as the date that he met you?
A I can't guarantee that it was May. It was

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late spring, early summer of 2005.
Q Would your best judgment be it was April or May of 2005?
A I can't make a best judgment.
Q Where did you meet him?
A At Greg Carr's office.
Q Did you know he was going to be there?
A I would think so, yes, sir.
Q How did you know he was going to be there?
A I spoke with Greg Carr.
Q And what did Greg Carr tell you?
A I can't recall the conversation. It was over a year ago.
Q Do you remember the conversation that you had in Mr. Carr's office with Mr. Walker?
A Not specifically, no, sir.
Q You don't remember the conversation?
A I remember the conversation, correct. Yes.
Q What did you-all talk about?
A Basically talked about Reach One Teach One's relationship in coming on board with Macon County Investments with us, with me, to attempt to open a charity bingo facility in

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Macon County.
Q Did you meet Mr. Walker through Mr. Carr?
A The first time I saw Reverend Walker it was with Mr. Carr, yes.
Q Is that the way you met him?
A Reverend Walker was referred to us through Representative, and at that point, Mayor Johnny Ford of Tuskegee.
Q All right. Johnny Ford --
A Yes, sir.
Q -- did what now?
A I approached an individual by the name of James Lane. And, again, if you want the story I'll tell it. If you want me to answer yes or no, I will.
Q I want you to tell me the story.
A I was looking to sign up a qualified charity.
Q You were looking for a qualified charity.
A To open charity bingo in Macon County.
Q When was this?
A Early 2005.
Q Early 2005. At this point, you didn't have

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a charity.
A No, sir.
Q You were looking for a charity.
A Yes, sir.
Q And who did you talk with?
A I met with James D. Lane.
Q Who is James D. Lane?
A Actually, let me correct myself. The first meeting with Mr. Jim Lane would have been probably in November or December of 2004.
Q Who is he?
A He's an individual in Montgomery.
Q Is he white or black?
A He's Caucasian.
Q Okay. What relation did he have with Macon County?
A He's got a lot of money, and I thought he could help me out.
Q What does he do?
A He's in the insurance business.
Q What did you go to Mr. Lane and ask him to do?
A To help me get some charities in Macon

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County, to help me establish a charitable bingo facility, possibility finance it and possibility build a hotel.
Q **And what did he say?**
A Okay.
Q **And then what did you do?**
A We had several meetings with him.
Q **What "we"?**
A Greg Carr, myself, Tom DeBray and Johnny Ford on one meeting.
Q **Tom DeBray?**
A DeBray.
Q **DeBray. And Johnny Ford?**
A Yes, sir.
Q **Now, where was that meeting?**
A Mr. Lane's office.
Q **Where is Mr. Lane's office?**
A I think it's Gunn Road, I believe, close to Eastdale Mall, Montgomery.
Q **Gunn Road?**
A Yes, sir.
Q **How did Mr. Ford get there, get to the meeting?**

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A You'd have to ask Mr. Ford.
Q **I mean, did you ask him to attend the meeting?**
A No, sir.
Q **Did Mr. Greg -- is that his name?**
MR. THOMAS: Mr. Carr.
Q **Mr. Carr ask him to attend?**
A I don't think that he did, no, sir.
Q **Do you think Mr. Lane asked him? That was the finances; is that right, Mr. Lane?**
A I would say that either Mr. Lane or Mr. Tom DeBray asked Mayor Ford to attend the meeting.
Q **Now, who is Tom DeBray?**
A An attorney in Montgomery.
Q **Is he or one of those persons connected with him MCII?**
A At this time, no, sir.
Q **Was he at that time?**
A I hired Mr. DeBray to help me find a charity. So, he was connected at that time, yes, sir.
Q **You hired him to help you find a charity.**

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A Uh-huh (positive response).
Q **Okay. Now, Mr. DeBray lives where in Montgomery?**
A I don't know.
Q **Is his office in Montgomery?**
A I don't know.
Q **Where did you hire him?**
A At Mr. Lane's office on Gunn Road in Montgomery.
Q **So, you didn't go to -- He's an attorney?**
A Yes, sir.
Q **But you didn't go to his office?**
A No, sir.
Q **You went to Mr. Lane's office?**
A Correct.
Q **And it was in his office that you hired Mr. DeBray for the purpose of getting him to obtain some charities in Macon County -- or a charity in Macon County. Were you looking for one charity or more than one?**
A I wouldn't say I was solely looking for one charity. So, more than one possibly.
Q **Possibly.**

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A Yes, sir.
Q **You told who that you were looking for charities in Macon County?**
A At which point?
Q **At this meeting. I thought you were telling me about -- You were telling me about a meeting in Mr. Lane's office with Mr. DeBray, Johnny Ford, Mr. Carr, and you; is that right?**
A That's correct.
Q **Who else was there?**
A That's it, best I can recall.
Q **And when was that meeting?**
A I don't recall. I would have to look back at my checks.
Q **In your best judgment.**
A Late 2004.
Q **Late 2004. Now, who called that meeting?**
A Mr. Jim Lane, James Lane.
Q **And you say you retained Mr. DeBray at that time.**
A I don't think I actually retained him in that meeting, no, sir.

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Q **Tell us the conversation that took place in that meeting.**
MR. THOMAS: If I may add, since he's on the record saying that Tom DeBray was a lawyer, I just want to say to you, you do not have to reveal to anyone what you said or what your lawyer said to you. Do you understand that?
THE WITNESS: Yes, sir.
MR. THOMAS: So, in the context of that, try the best you can to answer his question.
Q **You also said that Mr. DeBray was in that meeting in the presence of Johnny Ford; is that right?**
A I can't speak for certain if Mr. DeBray was in the meeting with Johnny Ford. It may have been Greg Carr, myself, Mr. Lane, and Johnny Ford.
Q **So, now you're saying that Mr. DeBray was not in the meeting.**
A We had several meetings.

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Q **I'm talking about the first -- the first one that you had Johnny Ford in the meeting.**
A We only had one meeting with Johnny Ford.
Q **All right. And who was in that meeting?**
A I want to say it was me, Mr. Carr, Mr. Lane and Mayor Ford.
Q **All right. So, Mr. DeBray was not in that meeting.**
A No, sir.
Q **All right. Well, then go ahead and tell us what took place in that meeting.**
A We sat down at Mr. Lane's table. Mr. Lane introduced me to the Mayor. The Mayor probably knew my name from being fairly active in Macon County over the past X amount of years. Expressed what I was trying to do. Expressed that he wanted to build -- Mr. Lane wanted to build a hotel adjacent to my facility.
Q **Hotel adjacent to your facility? What facility you had?**
A The facility we were discussing building in Macon County.

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Q **You didn't have a facility.**
A I didn't say I did have a facility.
Q **I'm sorry.**
A We discussed that he wanted to build a hotel next to my facility.
Q **You mean, next to the land that you own in Macon County. Because you don't have a --**
A Well, it actually would have been on land that I owned in Macon County.
Q **Okay. But you didn't have a facility then in Macon County to operate bingo, did you?**
A No, sir.
Q **And you don't have a facility now to operate bingo in Macon County, do you?**
A I'm not foolish enough to spend $15 million dollars.
Q **I'm just asking you: Do you have it?**
A No, sir.
Q **MCII does not have a facility built now in Macon County to operate bingo, does it?**
A No, sir.
Q **All right. Now, go ahead and tell us about the conversation.**

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A If I recall, Mr. Lane talked to the Mayor and told him what we wanted to do. And as the offer of the legislation, I felt like it would be a valuable conversation to have. The Mayor said he was for competition. He endorsed our project and wanted to see it happen. The Mayor furnished Mr. Tom DeBray with a black book with a list of a lot of charities in it. Mr. DeBray conducted --
Q **Hold on one minute. You said the Mayor supplied him with a black book?**
A Yes, sir.
Q **Did you see the book?**
A I have the book, yes, sir.
Q **You have the book.**
A Not with me.
Q **Okay. All right. This is a book that the Mayor gave you?**
A No, sir.
Q **Who gave you the book?**
A Mr. Lane.
Q **The black book Mr. Lane gave you.**
A Correct.

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Q **And you still have that book. And what did that book have in it?**
A A list of some perspective charities.
Q **And as best you recall, give us the name of some of the perspective charities that are in there.**
A I have no idea.
Q **Did you ever look in it?**
A Yes, sir.
Q **Did you read them?**
A Not enough to really remember them heavily.
Q **And I think you said earlier that Johnny Ford furnished you that book because Mr. Lane would not have had the list.**
A Not to me. Mr. Ford furnished the book to Mr. DeBray.
Q **Okay. Mr. Ford furnished --**
A Mayor Ford.
Q **-- the black book to Mr. --**
A Tom DeBray. Attorney Tom DeBray.
Q **-- to Attorney Tom DeBray.**
A DeBray.
Q **DeBray, in that meeting?**

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A No, sir.
Q **What meeting did Mr. Ford give the book to Mr. DeBray?**
A I would assume that was a meeting that I was not in between them. They had several more meetings.
Q **Who brought the book to the meeting?**
A To which meeting?
Q **The meeting you're testifying about.**
A The book was not brought to the initial meeting when it was myself -- Mr. DeBray was not in the initial meeting or the only meeting that I had with the current Mayor Johnny Ford.
Q **When you had the meeting with Johnny Ford, did he have the black book with him?**
A No, sir.
Q **Did he tell you he had a black book?**
A No, sir.
Q **When did you first see the black book?**
A A week or two after the meeting.
Q **And who did you see with the black book?**
A Mr. Jim Lane and Attorney Tom DeBray.

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Q **And that was not when Johnny Ford was there.**
A No, sir.
Q **Did they tell you where they got the black book from?**
A The charities? Yes, sir, the book of charities was from Attorney -- excuse me -- from current Mayor Johnny Ford.
Q **And you understood that Mayor Johnny Ford gave the black book to whom?**
A Either Tom DeBray or Jim Lane.
Q **And they, either one of them, gave the black book to you.**
A Yes, sir.
Q **And you have the black book now.**
A Attorney Carr has the black book, I'm certain, in his office.
Q **All right. But it's your book. It's under your control.**
A It's of no significance to me really now, so I don't know. I feel that I can get it.
Q **Okay. You can get it. All right. Does MCII have it?**
A No, sir.

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Q **But you had the book so that MCII could be the operator for one of the charities listed in the book you were hoping.**
A Yes, sir.
Q **Isn't that correct?**
A Yes, sir.
Q **All right. Go ahead and tell us about -- What did Johnny Ford say in that meeting?**
A He said that he was for competition, that competition is good, that Macon County needs new investment, that Macon County needs growth.
Q **And I think you said that he told you about Mr. Walker. Johnny Ford told you about Mr. Walker and about his Reach One Teach One.**
A No, sir.
Q **You didn't tell me that?**
A No, sir. I don't think I told you that. It's not the truth.
Q **Well, tell us -- Going back now, tell us who told you about Mr. Walker.**
A Greg Carr.

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Q **Okay. And Greg Carr arranged with you, I take it, and told you at a certain time Mr. Walker was going to be in his office.**
A Correct.
Q **And you met Mr. Walker in Mr. Carr's office in -- you said April or May, and Mr. Walker said May of '05; is that right?**
A Correct.
Q **Okay. I'm not trying to -- I don't know these things.**
A I understand.
Q **I'm just trying to find the answers. That's all.**
A Sure.
Q **Tell us what you-all talked about.**
A Showed him renderings of my to-be-built facility, maps of the property. Told him about what we were, who we are. Told him to check me out if he wished. Told him to check Attorney Carr out if he wished. Had an all-around good first meeting. We had discussed several things on the telephone previous to that. Greg Carr talked to him

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more than I did.
Q **Now, you had talked to Mr. Walker on the phone before this meeting?**
A Yes, sir.
Q **And when was that?**
A It would have been the spring of '05.
Q **About how much time before you met him?**
A I mean, I would say from February to May, somewhere in there. It would have been several conversations that we had.
Q **When was the first conversation you had with Mr. Walker?**
A I don't recall the date.
Q **Would it have been as early as February?**
A I would say probably late February to May.
Q **How did you know to talk to Mr. Walker over the telephone?**
A Because I believe that Greg Carr had contacted him previously.
Q **Do you know how Greg knew about Mr. Walker?**
A I'm pretty certain that Mr. Walker's charities was one of the charities listed in the book, the black book.

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Q **Did you know at that time that Mr. Walker was living in Florida?**
A At which time?
Q **The first time you talked with him.**
A I believe he told me that he shared residence, lived in Florida some and Alabama some.
Q **And when did he tell you that?**
A I would imagine it would have been in the first conversation.
Q **In the first conversation.**
A Yes, sir.
Q **And that was in about February of 2005.**
A No, sir. It would be between February and May of 2005.
Q **February and May of 2005. Now, what did you-all talk about over the telephone?**
A I'm certain that the first part was simply small talk trying to make introductions. I'm sure I told him of my struggles. Told him of my problems. Told him of my fears. Told him of threats that I had been made aware of. Told him what he was getting into

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if he teamed up with me. Told him who to be afraid of and what to be afraid of.
Q **Who did you tell him to be afraid of?**
A The same people that David Warren had told me to be afraid of.
Q **I'm just asking --**
A Milton McGregor.
Q **You told Mr. Walker to be -- to be what, now?**
A To watch what he does if he comes with me.
Q **To watch what he does?**
A Yes, sir. To beware.
Q **Beware of what?**
A Milton McGregor.
Q **Why do you want him to be aware of Milton McGregor?**
A Because the Sheriff had told me that people get killed over things like this.
Q **The Sheriff told you?**
A Yes, sir.
Q **Did you interpret the Sheriff saying that is that Milton McGregor was having folks killed? Did you gather that from his talk**

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with you?
A The Sheriff by no means threatened at all. The Sheriff and I had some really good personal conversations.
Q **My conversation was -- Did you interpret from something the Sheriff said that the Sheriff was implying that Milton McGregor was having people killed?**
A Was having people killed? No, sir.
Q **All right. But he did -- You say the Sheriff said to you to be aware of Milton McGregor.**
A Not to be aware, to beware.
Q **To beware of Milton McGregor.**
A Yes, sir.
Q **What did you understand the Sheriff to say? What did you understand him to mean? What did you understand him to mean?**
MR. THOMAS: Answer his question.
A May I curse?
MR. THOMAS: Answer his question as truthfully as you can.
Q **I just want to know --**

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A He said, "I hate that mother fucker, Milton McGregor."
Q **Who said that?**
A Sheriff David Warren.
Q **Sheriff David Warren --**
A Yes, sir.
Q **-- told you he hated that what you said.**
A Yes, sir.
Q **And what I will not say.**
A Excuse me, Reverend and Ma'am.
Q **And when did David Warren tell you that?**
A It would have been in the spring on one of two meetings at his personal residence of 2005. He told me he was being -- The Sheriff told me he was being followed, that every time he spoke with me, Bobby Segall, or Joe Turnham, that Milton McGregor called him, that Milton put him here, that he did not want to be here.
Q **He said Milton put him where?**
A Well, he said here referring to -- I would assume he would say in the position of the sole propagator and regulator of the rules

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in Macon County, and hugged me both times when I left his house.
Q **The Sheriff did?**
A Yes, sir.
Q **And when was that?**
A There were two meetings at his house. I can't remember the specific dates. I have a record of dates because I spoke with Bobby Segall, my attorney, who actually has a record of the dates. But in my head, I can't tell you specifically.
Q **Do you have a calendar?**
A With me?
Q **No. A calendar that would indicate the dates.**
A I have the bills from Bobby Segall, correct.
Q **You have the bills.**
A Yes, sir.
Q **For services that he rendered?**
A Yes, sir.
Q **What services did he render?**
A He was hired in either January or February as an attorney.

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Q **To do what?**
A To help me get my facility built, bingo in Macon County.
Q **And you already had hired Mr. Gregory -- Mr. Carr.**
A Greg Carr never got paid, but, yes, sir.
Q **And you hired Mr. DeBray.**
A Yes, sir.
Q **And you're saying that the Sheriff hugged you in his house?**
A No, sir, outside of his house.
Q **Outside -- at his house.**
A Yes, sir.
Q **I'm not trying to -- I'm just trying to be sure I understand.**
A Well, I know how attorneys are, and I'm trying to keep my answers straight.
Q **All right. He hugged you, embraced you, told you to beware of McGregor because he put him in that position. And he wouldn't give you an application to make a license.**
A No, sir.
Q **That's highly inconsistent, isn't it?**

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A Amen.
Q Wouldn't give you an application.
A No, sir.
Q Are you saying, no, he would not give you one? Would he give you one, an application?
A At which point?
Q At any point.
A He never gave me an application, no, sir.
Q And he always -- And you always asked him for it, and he never gave it to you.
A No, sir. I don't feel that I asked him for the application at all either of the two meetings that I was in his residence.
Q So, you never asked for an application, then.
A No, I discussed -- That happened on the telephone.
Q So, you never -- Now, you -- You never really -- The Sheriff never refused to give you an application, did he?
A At his house, no, sir. I said earlier in my testimony that that happened on the telephone and in his office.

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Q Okay. He couldn't give you an application on the telephone, could he?
A It would be tough.
Q All right.
(At which time, a recess was taken.)
BY MR. GRAY:
Q Let me, if I can before I go back to the Sheriff, go back to your conversation with Mr. Walker. I think you said the first conversation you had was a conversation with -- or the initial conversation you had was a conversation with Mr. Ford and who else? This was before the conversation you had with Mr. Walker; is that correct?
A Again, restate that question.
Q I'm trying to get in sequence the various meetings you had. Before you met Mr. Walker, I think you said you had met Johnny Ford and Mr. Lane; is that correct?
A Yes, sir.
Q Is that the first and only meeting you had with Johnny Ford; is that right?

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A Yes, sir.
Q And he gave you a list. Told you about some charities.
A No, sir.
Q He didn't? What did Johnny Ford say in that meeting?
A He said that he was for it, that competition was good. He endorsed our project. Macon County needed the money. Macon County needed the growth. They needed the new investment, and that he was behind it.
Q Did you ask him to do anything for you?
A Personally? No, sir.
Q Or anybody in the meeting ask Johnny Ford to do anything?
A No, sir.
Q Was there any discussion with Johnny Ford about supplying some suggested charities --
A No, sir.
Q -- who you could team up with?
A No.
Q Did you discuss in that meeting any suggested charities?

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A No.
Q No question about it?
A No.
Q So, what did you want Johnny Ford to do? Why were you meeting with him?
A I didn't call the meeting.
Q And there was no discussion in that meeting about getting charities?
A No.
Q What did you-all talk about other than what you've already said?
A His stance on me moving forward.
Q Now, when was the next meeting you had with anybody dealing with bingo?
A I can't pinpoint a date for the next meeting with anybody.
Q Well, now, you started telling us -- I'm not sure you finished telling us about your meeting with Mr. Walker. What took place in that meeting?
A Which meeting?
Q With Mr. Walker, the first meeting you had with him.

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A More or less just generally introductions, handshakes, meeting each other.
Q Did you reach an agreement with him with respect to serving as an operator for a charity and for his group to apply for a license? Did you reach that understanding in that meeting?
A I felt like we had a mutual agreement.
Q You had an agreement for what?
A That he would come on board with us to move forward.
Q With what?
A With an effort to go for a charity bingo facility in Macon County.
Q Specifically what was Mr. Walker and his group supposed to do?
A Specifically?
Q Yes.
A They are supposed to be the Class B license holder.
Q Well, was he and his group going to be the one to file the application?
A Restate that question.

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Q I'm just trying to find out who was going to file the application for the license.
A They were going to be the charity for the Class B license, but who was going to file it, I'm not sure at that point physically.
Q Well, let me ask this: They would be the applicant.
A Correct.
Q Reach One Teach One.
A Yes, sir.
Q And did you reach that agreement with Mr. Walker in that first meeting?
A I feel that we had a mutual agreement in the first meeting.
Q What was his charity going to get as a result of -- from your organization as a result of getting the license money wise?
A At least what Victoryland was paying.
Q What was Victoryland paying? What did you tell him is what I'm asking you.
A We were not certain.
Q Did you have an understanding on the amount of money?

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A That first meeting I would say, no, sir.
Q Did you have -- At any time, did you reach an understanding about an amount of money?
A At any time?
Q Yes.
A Yes, sir.
Q What is the understanding between MCII and Reach One Teach One about what Reach One Teach One will get if it gets a license and if MCII is the operator?
A It was fifteen, five.
Q I don't know what you mean, fifteen, five.
A Fifteen thousand, five hundred ($15,500) dollars to Reach One Teach One, or if the Sheriff prescribed anything any differently for a minimum or standard charity payment that would be the charity payment, or it could be more in the event that we agreed to raise it.
Q Do you have that in writing?
A I don't know.
Q You don't know? Did you ever reduce to writing your agreement with Teach One Reach

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One -- Reach One Teach One?
A Yes, sir.
Q What is that agreement?
A Greg Carr would have that agreement. I don't have that agreement.
Q Is that agreement a part of your application?
A I don't know.
Q You don't know whether it is or not?
A No, sir.
Q Okay. Now, you had a lot of -- you had this conversation. Did you make a tape-recording of any of these conversations?
A No.
Q Did you make any other -- Did you make a tape-recording of the conversations you had with the Mayor, Mr. Lane, Mr. DeBray and yourself?
A No.
Q Did you make a tape-recording of the conversation you had or any of the conversations you had with you and Mr. Walker?

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A No.
Q Did you make a tape of any of the conversations you had with you and the Sheriff?
A No.
Q Did you make a tape of any conversation you had with anybody dealing with or in connection with bingo?
A No.
Q Now, you did not know Mr. Walker before you met him in Mr. Carr's office?
A No.
Q Okay. Now, let me go back and ask you about the Sheriff. When was the first time -- Now, you sold the Sheriff some land. You don't claim that he didn't pay you for the land, do you?
A He paid.
Q He paid. And you don't claim that you gave him the land in consideration for which he was going to give you a license, did you?
A No, sir.
Q As a matter of fact, he bought the land

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before bingo had been approved.
A Correct.
Q Okay. When was the first conversation you had with the Sheriff concerning bingo?
A Mid spring 2005.
Q Okay. Mid spring.
A Early -- I would say mid spring 2005.
Q And when you said mid spring 2005, I think earlier you told us you were talking about April or May. Well, just tell us what you mean by that.
A Between January and May of 2005.
Q Between January and May.
A Yes, sir.
Q Would the first conversation you had with the Sheriff be closer to May or closer to January?
A I don't know.
Q You don't know?
A No, sir.
Q Was it warm, or was it cold?
A I don't remember.
Q Or was it hot? Don't remember.

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A I would say closer to January than closer to May.
Q And where did that conversation occur? Now, this is the first conversation you had with him in the issue about bingo.
A It would have been on the phone.
Q You called him; is that right?
A I would think so.
Q What did you say when you called the Sheriff in the first conversation about bingo?
A I can't recall exactly what I would have said. I didn't want to press the Sheriff the issue of bingo.
Q All right. This is the first conversation, now. I'm not talking about later ones.
A Yes, sir.
Q If you can just tell us the essence of that first conversation.
A I can't really remember. I hired Joe Turnham and Bobby Segall to talk to the Sheriff.
Q You thought you couldn't talk to him yourself?

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A I didn't want to play my friendship into this deal.
Q You had a friendship with the Sheriff?
A Yes, sir.
Q What kind of friendship did you-all have?
A I sold him property. I came to his house one time and cut the pilot line on when his heat didn't work. I climbed up in his attic for him. Another time he told me on the phone that he may even deputize me as a Macon County Sheriff. And it was in a joking fashion, but someone robbed the Fannin grocery store, and I called the Sheriff. And, you know, I had him in my telephone because I had sold him land and spoke to him. And I was chasing them.
Q Chasing who?
A The people who robbed the Fannin grocery. And I called the Sheriff and told him where they were. I kept chasing and kept chasing, and they were chasing. And, of course, I didn't catch them. I think they ended up catching them. We kind of high-fived and

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laughed at the end on the telephone that he may even deputize me. But it certainly had nothing to do with bingo.
Q **So, at this point, you hadn't even talked about bingo.**
A I don't know when that Fannin grocery conversation was. My goal with the whole deal was I didn't want to pull strings. I didn't want to pull favors. I didn't want to play friend. I wanted to get open fair and square. And I didn't want to look David Warren in the eye and use the leverage of friendship. So, I hired Bobby Segall and Stan Gregory to do all talking to David Warren, and they did. Who were also friends and --
Q **Bobby Segall and who?**
A Joe Turnham.
Q **And Joe Turnham?**
A Yes, sir.
Q **Did you say Stan Gregory?**
A I did. Stan Gregory is another attorney I hired if I said it. I didn't hire Stan

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Gregory to speak with David Warren. I hired Bobby and Joe to speak, and Stan was a constitutional lawyer at Bradley-Arant who was hired to look over rules and regulations and even propose, possibly, new rules and regulations.
Q **Is he the one who prepared the suggested rules and regulations that you later gave to the Sheriff and suggested that he might want to use those?**
A Well, I never gave the rules to the Sheriff.
Q **Well, who gave them to him?**
A It would be Bobby Segall or Joe Turnham.
Q **You knew that there were some rules and regulations that you had caused to be made concerning -- that you were interested in his adopting.**
A Correct.
Q **Okay. And who prepared those rules and regulations?**
A It would have been Joe Turnham, Bobby Segall and Stan Gregory.
Q **Is Joe Turnham a lawyer?**

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A No, sir, not to my knowledge.
Q **Approximately how many conversations did you have with the Sheriff with reference to getting a license for bingo?**
A In what time period?
Q **At any time period. I think you told us the first time you talked was mid spring of '05. I believe that's your testimony.**
A We probably spoke -- We met two times at his house and one time at the Sheriff's Office on December 28th, 2005. And I would imagine that we had probably between four and ten telephone conversations over the course.
Q **Now, you met only twice at his house.**
A Correct.
Q **Have you told us already everything that took place in those conversations at his house?**
A No, sir.
Q **Well, tell us what took place in those conversations.**
A The first time it was regarding the property that joined his house.

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Q **I'm talking about bingo.**
A Well, you said tell you everything.
Q **I want the conversations concerning bingo that occurred at his house.**
A I took a rendering of my facility to be built to his house, and the conversation started about the property adjacent to his house. But at the Sheriff's election, he asked me how my project was going. What's going on, very friendly conversation. And I showed him the rendering, and they liked it. He and Pebblin were both sitting there. I told him what was in my heart, what I wanted to do with this project; and not only with that project, but specifically for the County. The Sheriff told me that he wanted a police substation somewhere near Hardaway because he knew I had some land in the area. I told him that I'd try to help him.
Q **If you would, just tell me what you said about bingo. I'm not interested in the personal things that you-all said.**
A Well, I have -- To relive the conversation,

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I've got to go through it.
Q **All right. Well, let me --**
A So, we can delete it from the record.
Q **Let me do it another way. Was there anything specifically stated in that first conversation concerning what the Sheriff was going to do or what you were going to do with respect to bingo?**
A Yes.
Q **What was it?**
A In that conversation, the Sheriff told me to beware of what I did, that he was being watched.
Q **Now, is that the same conversation you told us about?**
A Yes, sir. It happened twice. This is related to bingo so if I can continue.
Q **All right. Well, what else other than that?**
A Well, let me go forward, please, sir.
Q **Well, let me ask you this: Did you have any -- You told us about the rules and regulations. You told us about the diagram. Was there anything else that you told him**

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about your project, specifically about the contents of your project?
A Specifically?
Q **Yes.**
A Yes, sir.
Q **What was it?**
A I told him what it was going to cost.
Q **How much?**
A At that point, we were around $60 million dollars. I told him where it was going to be, which, of course, he knew the property. Told him who my people were, who were my partners.
Q **And who are they?**
A Greg Carr; my architect, of course, Jim Barganier; my contractor, Ken Upchurch. At that point, I was still talking with David Hanlon, Mr. Sid Coleman had expressed an interest to put money in it; Gary Nichols at Live Bait from Orange Beach. He's also Nichols Concrete, had expressed an interest in the project. And he said he knew me. He'd known me. He liked me. He liked my

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people. He remarked he did not -- There was something wrong with the other potential facility that was looking at that time, the Lucky Palace. And he remarked that something was not right about them but never elaborated, and I didn't go into that. This was all inside his home with Pebblin. We walked out back. And I tell you, it would have been mosquito season because there were Citronella candles burning. We walked out by the carport and continued to talk and remarked about how nice it was where his property was. Remarked again about, be careful what you do. We walked out to the side of a silver or gold Honda, and the Sheriff remarked that he drives it back to the back of the property. And I said, "How the heck do you get there in it," and he laughed.
Q **Well, let me --**
A I'm going, Mr. Gray.
Q **I don't want to know about these personal conversations. And I take credit for --**

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A He said, "You're going to get it."
Q **Let me give you a specific question so we can get to it. Did there develop a time -- and I think you told me that you had had -- you hired some lawyers and got them to put together an application for you and also to put together, did you not, some rules and regulations?**
A Some suggestive rules and regulations.
Q **Yeah, some suggestive rules and regulations.**
MR. GRAY: Let me let you mark that as Defendant's Exhibit Two.
(At which time, the referred-to document was marked as Defendant's Exhibit No. 2 by the Reporter.)
MS. JONES: Mr. Gray, do you want this all to go?
MR. THOMAS: That appears to be the application.
MR. GRAY: I'm going to ask him about that.
MR. THOMAS: Okay. I got you.

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Q Let me show you what's been marked as Defendant's Exhibit Two. And I'm going to take it one at a time. Take the first -- that first letter or that first page of Exhibit Two, do you see that?
A Yes, sir.
Q You've seen that before, haven't you?
A Yes, sir.
Q At some point in time, was not that delivered to Sheriff Warren by some of your representatives --
A Yes, sir.
Q -- as a suggested document for him to sign?
A Yes, sir.
Q All right. That's page one. Now, look at page two. I think those next documents are first amendments to second amendment and restated rules and regulations for the licensing and bingo games in Macon County; is that correct?
A Yes, sir.
Q And were not these at some point delivered to Sheriff Warren as your suggestions about

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the rules and regulations that he should adopt?
A Yes, sir.
Q Okay. Now, let me show you the third document in there, which is the second amendment to the second amended and restated rules and regulations for the licenses in operating of bingo games in Macon County. Do you see that?
A Yes, sir.
Q And wasn't that at some point delivered to the Sheriff by some of your representatives in connection with -- as a suggested rules that he should adopt?
A Again, is that listed as page one or page two of that document?
Q It's really the second amendment, which consists of one, two -- should be three pages.
A Okay. So which page --
Q Four pages.
A Which page are you referring to?
Q I'm referring to the whole document.

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A First page?
Q Page one, page two, page three, and page four, all of those are one document; isn't that correct?
A Yes, sir.
Q And didn't you have these prepared --
A Yes, sir.
Q -- as suggested proposed rules and regulations --
A Yes, sir.
Q -- that you wanted the Sheriff to adopt so that you could get a license?
A Correct.
Q Isn't that correct? Now, the next part of this package, isn't this -- look through it -- a copy of the application that you left at the Sheriff's Office on or about July 23, 2005?
A Yes, sir. It's part of that document.
Q What is missing, other than I know we concluded when we talked before there was a survey and there were some diagrams of your proposed facility.

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A Correct.
Q Do you see anything else missing from this?
A If everything that is on this cover sheet is in this package, then, yes, sir, this is the package minus the survey and the rendering.
Q And my recollection, I believe that is the same thing as Plaintiff's Exhibit Nine that's attached to the Sheriff's deposition, the application of Reach One Teach One; isn't that correct?
MR. THOMAS: But if I'm not mistaken, 10-A and 10-B are going to be the survey and the diagram.
MR. GRAY: I think you're right.
MR. THOMAS: That's right. Nine, 10-A and 10-B.
MR. GRAY: All right. And all I'm doing is just tying all this stuff together.
Q So, at some point in time, all of this was delivered to the Sheriff, right?
A Correct.
Q And this is what you wanted him, one, to

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adopt these rules and regulations and prepare this certificate so you could have an operator's license, and so Reach One Teach One could have a bingo license; is that correct?
A Is your question that they were all delivered together?
Q **No. At one point, I don't know whether they were all delivered together or not. Were they?**
A I was handed the file as one file.
Q **Yeah.**
A And it is my opinion that the file did not go to the Sheriff as one file. It went to the Sheriff as the application.
Q **I know the original application went as an application. But wasn't there a point in time when you or some of your people caused to be delivered to the Sheriff this set of documents which included an application which was either later or subsequently filed?**
A The Sheriff was furnished all the documents

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that you furnished me. But, again, I'm going to say that it was furnished in two fashions. One, he would have received the top part of this, which you read to me earlier. And the application would have been furnished to him on or about that Saturday.
Q **Okay. Let's take them separately. I think that's probably best. Let's take Exhibit Two. I think you have already indicated -- There's no question, but this was submitted to him?**
A Yes, sir.
Q **And you wanted him to sign this --**
A Yes, sir.
Q **-- as a condition so that you could get a license?**
A Yes, sir.
MR. GRAY: All right. Now, let's take first amendment to second amended and restated rules and regulations consisting of three pages, and let's mark that as the next

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exhibit.
(At which time, the referred-to document was marked as Defendant's Exhibit No. 3 by the Reporter.)
MR. GRAY: Okay. That's three. And then as the next exhibit, consisting of four pages, is the proposed second amendment to the restated rules and motion regulations.
(At which time, the referred-to document was marked as Defendant's Exhibit No. 4 by the Reporter.)
MR. GRAY: I'm not going to put in the rules and regulations -- I mean, the application because it's already in as nine, and I don't see any point in clogging the record.
Q **Now, Mr. Thomas, why did you want the Sheriff to adopt certificate number two -- I**

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mean, Exhibit Two? Why did you want him to sign that?
A Well, this was, in my opinion, a build-out letter.
Q **A what?**
A A build-out letter. I likened in my --
Q **Excuse me. Tell me what is a build-out letter. I don't understand, and I'm not sure the Court would.**
A Okay. I likened this investment to much that of a hospital or something like that due to the current regulatory situation in Macon County for bingo and the regulatory situation at that time being that one person had sole discretion as to what can or cannot happen. And I felt, as well as did lenders, that it's tough when one person has the say-so to go build a $15 million dollar building or a $5 million dollar building without some assurance that if you build it just as you said that you would, just as your plans say it is, and you build it where you say you are, that -- like a mortgage

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take-out letter or like a CON for the hospital industry, that you would get your license if you comply with what you tell him you are going to do.
Q Now, you wanted him to sign this statement, right?
A Yes, sir.
Q And you knew if he signed this statement he would not be abiding by the rules and regulations, those that he had already adopted.
A Well, it was totally his --
Q No. I'm asking you. This does not comply with the rules and regulations, does it?
A Well, the Sheriff has the right to change the rules and regulations.
Q Well, I understand that. But I'm saying the way it is now, if he had signed this, it would have violated his existing rules and regulations; isn't that correct?
MR. THOMAS: It calls for a legal conclusion. You can answer.
A I would say, yes, but he had already

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violated those rules when he changed them.
Q Okay. All right. I'm not asking you -- Okay.
A He had violated his own rules when he changed them.
Q All right. Okay. All right. Now, so to keep him from violating his rules and regulations, you wanted him to change the regulations for you, didn't you? And isn't that what --
MR. GRAY, JR: He didn't answer that question. He didn't say yes.
Q Didn't you suggest to the Sheriff so that he could legally sign Exhibit Two that he change his rules and regulations; isn't that correct?
A Did I suggest that?
Q Isn't that what -- You said that you had given him these suggested changes.
A I never gave him those suggested changes.
Q Well, you or someone on your behalf gave it to him.
A Correct. Yes, sir.

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Q Isn't that correct? You said that.
A Yes, sir.
Q And wasn't the purpose of these changes was so that he could under -- if he had adopted your changes, then he could sign your certification and you would be able to proceed; isn't that correct?
A Correct. Yes, sir.
Q All right. So, there's no question but you wanted him to change his rules by making the amendment that's set forth in Defendant's Exhibit Four and change in his rules to adopt your Defendant's Exhibit Three.
A It was a suggestion, yes, sir.
Q It was a suggestion. Okay. And you wanted him to do that so that you would be able to qualify under your proposed changes if he had adopt them then you could have qualified; isn't that correct?
A If he had -- Correct. If he had changed those rules, then myself and the Lucky Palace could have both qualified to get a license.

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Q All right.
A Those rules were drafted --
Q I'm not asking then about how it was drafted. I might ask you that later, but I just want to get that in.
Okay. Who drafted them?
A Stan Gregory.
Q And Stan Gregory is from what law firm?
A Bradley-Arant.
Q Okay. And you paid him, of course, for it
A Yes, sir.
Q And you knew that your application as submitted did not comply with the then existing rules and regulations as promulgated by the Sheriff, didn't you?
A Ask that question again.
MR. GRAY: Read it back for me.
(At which time, the Reporter read the requested portion.)
A My application was not submitted.
Q Well, I mean, the application that you left at the Sheriff's -- You left this application that's attached as P-9 to the

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Sheriff's deposition, you left that application at the Sheriff's Office, didn't you?
A Yes, sir.
Q **All right. And you knew that that application that you left there under the existing rules that the Sheriff had did not – that application did not comply with the rules. You knew that, didn't you?**
A Correct.
Q **And that's why you wanted the Sheriff to change the rules so that if he changed these rules, in your opinion, then he could have approved your application; isn't that correct?**
A Those rules were --
Q **If he changed these rules --**
A These suggested rules were supplied to the Sheriff.
Q **Then he could have approved it –**
MR. THOMAS: Let him try to answer, Mr. Gray.
A The suggested rules were supplied to the

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Sheriff well before I delivered my application to the Sheriff's Office. The Sheriff had played a major role in those suggested rules. The Sheriff met with Bobby Segall personally on six occasions. He'd met with Joe Turnham on numerous -- more than six occasions. He met on two occasions with both Bobby Segall and Joe Turnham to discuss these suggested rules. The Sheriff and his wife Pebblin had input.
Q **I asked you a simple question.**
MR. GRAY: All these answers are not going to be taken against my time. All I asked him was whether or not in his opinion that he had to have this adopted in order for him to get approval.
MR. THOMAS: It calls for a legal opinion, but if you have an opinion.
A I was led to believe by the Sheriff and the Sheriff's actions that these rules were a, quote, collaboration of the Sheriff, Joe

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Turnham, Bobby Segall to change the situation in Macon County for the better. The Sheriff felt it was a better change. That is the only reason that we pursued those rules and regulations and did not pursue the legal way earlier is because the Sheriff was meeting on occasion and on six occasions -- excuse me -- eight occasions with Bobby. No, six meetings with Bobby, eight phone calls to be confirmed by his bills. And Joe Turnham said on more occasions than that. The Sheriff told them he was going to sign those rules. He told them he was going to give me a license.
Q **The Sheriff told them that?**
A Yes, sir.
Q **Did you hear the Sheriff say that?**
A Joe Turnham --
Q **No. I'm saying did you hear the Sheriff –**
A Joe Turnham --
Q **Just a moment. Did you hear the Sheriff tell anybody that he was going to give you a license?**

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A Me, twice.
Q **He told you that?**
A Twice.
Q **When? Where?**
A At his house.
Q **You heard him when he testified on -- Was it Tuesday?**
A Yes, sir.
Q **And he denied that, didn't he?**
A He also said he didn't know me.
Q **I'm saying he denied that, didn't he? Didn't he?**
A He did.
Q **All right. So, you say he did; he said he didn't?**
A Twice he did.
Q **All right.**
A At his house.
Q **And he denied it twice, didn't he, in his deposition.**
A He denied it once.
Q **All right. So, is it your testimony that you believe that as he sits here now that he**

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would agree with what you're saying?
A I think he would.
Q You think he would?
A Yes, sir.
Q All right. When did -- when were these -- Exhibits Two, Three and Four, when were they submitted to the Sheriff for his adoption, because that's what you-all wanted him to do was to adopt them. When were they submitted?
A I can't give an exact date. But, again, I'm going to set the time line. Joe Turnham and Bobby Segall and Stan Gregory began in January or February of 2005 to work on that document. That document got changed significantly throughout that time. They began meeting with the Sheriff, I would say, in February of 2005. I don't know when they actually submitted that document to the Sheriff because that document changed considerably over the progression of the Sheriff and Pebblin Warren's input into that document.

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Q Do you know who gave the Sheriff these three documents?
A It would either be --
Q Do you know of your own knowledge?
A It would be Joe Turnham or Bobby Segall.
Q Are you sure you didn't give them to him?
A I may have also given those documents to the Sheriff, but I know they were introduced initially by Joe and Bobby.
Q Isn't it a fact you did, in fact, give him all these documents and wanted him to sign them?
A Yes, sir.
Q And wanted him to change the rules and regulations solely so you and your charity -- I mean, Reach One Teach One could get a license; isn't that correct?
A The documents would have already been furnished to the Sheriff by Joe and Bobby. I did not see the Sheriff face to face until the first meeting at his house, which would have been late spring.
Q All of these persons were your agents, were

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they not? They were working for you. Bobby Segall was working for you?
A Correct. He was a hired attorney.
Q Mr. Turnham was working for you?
A Correct.
Q Mr. Carr was your lawyer?
A Correct.
Q Mr. DeBray was your lawyer?
A Correct.
Q The lawyer up in Birmingham who drafted these were your lawyers?
A I don't know a lawyer in Birmingham.
Q Well, who was --
A He's in Montgomery.
Q Gregory is in Montgomery, but he's with the firm that's -- I guess the main office is in Birmingham.
Okay. If those rules and regulations had been adopted, how did they change the rules and regulations as promulgated by the Sheriff?
A Can you furnish me back those rules and regulations?

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Q Yes.
A Well, the first amendment --
Q And refer to it by the exhibit number.
A Well, it's Exhibit Three. Without having the rules and regulations as promulgated by the Sheriff at the time, I can't tell you exactly what the changes are because I need to reference those. But I can tell you that --
Q Which set of rules do you want?
A The rules that you cited that would be compared to these at this time.
Q We can give you copies of all the rules if you need to see it. But can you generally tell us what changes, if any, were made?
A I think that the -- Again, I have not read through, and I'm sure that the Court or the Judge will. The build-out letter that you saw earlier would allow --
MR. THOMAS: Don't call it build-out. Call it what it is.
A This "Certificate of Preliminary Designation of Macon County Investments, Inc. Location

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as a Qualified Location" would allow Macon County Investments to be a qualified location preconstruction as long as they built what -- we built what we said we would in compliance with the drawings and the renderings delivered to the Sheriff. As long as we build what we say, where we say, like we say, it would be much like a mortgage take-out letter. You have an inspection and everything would be okay. We would be pre-approved, per sè.

Again, I'm going to speculate saying without reading here, I think that the liability insurance is the same. I think the liquor liability is the same. I think the parking is the same. I think the on-site security is the same. I think the on-site personnel is the same. I think the surety bond is the same. I think the accounting procedures are the same. I believe that eight, again, would be trumped by the document that's titled "Certificate of Preliminary Designation of Macon County

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Investments, Incorporated Location as a Qualified Location." I think the ADA is the same.

Q **Just tell me the differences. That's really all I'm really trying to point out.**

A I would have to sit and memorize both. I believe that ten is the same, that the residents -- Sixty-six (66%) percent of the owners would have to be three-year Alabama residents.

Then in respect to the requirement of clause, eight is where, again, it addresses "Certificate of Preliminary Designation of Macon County Investments, Inc. Location as a Qualified Location," stating again, like I stated earlier, that basically in laymen's terms, if you build the facility as you said you were, there would not be --

Q **Are there any other changes that you can think of in your proposed rules and regulations?**

A I don't see any, no, sir. Again, let the

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document speak for itself, but I don't see any.

Q **All right.**

A Do you want to go on the second amendment because there are significant changes there.

Q **Well, just tell us what they are. I don't want you to read what is not changed. I just want you to tell us what's changed.**

A Well, this whole thing is new. So, I can read the entire document.

Q **Well --**

A Every bit of it's new.

Q **-- I don't want you to read the document. If you can tell us basically what it does, I'll do that. If not, I won't ask you about it.**

A This entire document is a --

Q **That document in effect does what?**

A Any other industry in any other gaming area in any other gaming jurisdiction in the country, there is some degree of regulatory body, A, that has gaming intelligence and background and history.

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Q **Let me ask --**

A Let me continue, Mr. Gray.

MR. THOMAS: Answer his question.

Q **I've got a time element. Does that, in fact, set up a commission --**

A Correct.

Q **-- for the purpose of regulating bingo?**

A Correct.

Q **That's a whole different situation. That would take the rules and regulations really out of the hands of the Sheriff and put it in the hands of a commission; isn't that correct?**

A No.

Q **He would be designating them to do it, wouldn't he?**

A The Sheriff due to the law that passed through the House and Senate, has the sole discretion as to bingo. This suggestion the Sheriff had stated to Joe Turnham --

Q **I'm not asking you. All I'm asking you whether or not is -- The only question I'm asking you --**

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A Yes, sir.
Q -- is whether or not under that proposed amendment the Sheriff would be delegating to a commission to do some of the duties and responsibilities that he is assigned to under the constitutional amendment; isn't that correct?
A He would still sit atop the commission, but he would delegate -- correct. He would still have the final say.
Q Okay. Is that correct?
A Yes, sir, that is correct.
Q All right. Thank you. It's 12:00.
(At which time, a recess was taken).
BY MR. GRAY:
Q Mr. Thomas, we talked about the proposed rules and regulations that you submitted to the Sheriff. At what point did you conclude he was not going to adopt the proposed rules and regulations that you submitted to him? When did you make that decision? Let me ask you: Did there come a time when you

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concluded that he was not going to adopt your rules and regulations or the proposed rules and regulations that you made?
A Yes, sir. The Sheriff fell ill --
Q No. I'm just asking you did there come a time when you concluded that he was not going to adopt the rules and regulations?
A Yes, sir.
Q Okay. Give me the date or the approximate date that you reached that conclusion.
A Early June.
Q Early June of --
A '05.
Q Okay. Now, between the time you submitted to him these proposed rules and regulations and the time you concluded that he was not going to adopt them, did you make an appearance before the City Council or the town council of Shorter in order to try to get them to encourage the Sheriff to change the rules and regulations?
A No, sir.
Q Did you ever appear before the Macon County

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Commission and make a presentation to the Macon County Commission with the idea of getting their support so you could obtain a license?
A Yes, sir.
Q And when was that?
A I believe it was in November of '05.
Q November of '05?
A Yes, sir.
Q And did you also appear before the Chamber of Commerce in the City of Tuskegee --
A Yes, sir.
Q -- and made a presentation to try to get them to have the Sheriff change his rules and regulations so you could get a license?
A Yes, sir.
Q Did you make a similar presentation to the Rotary Club of Tuskegee at The Torch?
A No, sir.
Q You didn't make a presentation?
A I did.
Q And didn't you indicate there that the Sheriff, in effect, was interfering with

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your ability to get a license?
A Correct. The purposes of that meeting --
Q No. I didn't ask you the purposes.
A Yes, sir, I did have a meeting with them.
Q You did, didn't you? And didn't you also tell them in that meeting that you had a million dollars and you were going to go ahead and employ some lawyers in order to get you a license, didn't you?
A I don't know how I stated it, but, yes, sir, that could be certainly -- yes, sir.
Q You mentioned a million dollars and you mentioned getting lawyers.
A Yes, sir.
Q And you got the million dollar lawyer representing you sitting by you, don't you?
MR. THOMAS: Don't underestimate him, Mr. Gray. It's a little higher than that.
MR. GRAY: I'm sorry. I'm sorry. Two million dollars or multi-million dollars. How's that?
MR. THOMAS: That's good enough.

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MR. GRAY: Multi-million dollars.
THE WITNESS: I have an excellent lawyer sitting next to me.
MR. GRAY: Oh, no question about that. Multi-million dollars. All right. Okay. All right. All right.
BY MR. GRAY:
Q So, you did everything you thought you could do to bring pressure on the Sheriff to try to get him to issue a license for you, didn't you, short of filing a lawsuit.
A Yes, sir, I feel like I exhausted all avenues.
Q And then at some point, you filed a lawsuit.
A Correct.
Q Do you remember -- And go over to the rules and regulations that are in existence, and you can take either one. Let's start with the first set of rules and regulations. And I think that's Exhibit Two to the Sheriff's deposition. You're familiar with these rules and regulations, aren't you?
A Yes, sir.

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Q I ask you to look at section 12, and that's the first rules and regulations. And what does it say?
A Would you like for me to read it?
Q Yes, sir.
A Okay. "The Sheriff for good cause shown may revoke any license issued pursuant hereto if the license holder or any officer, director, agent, employee, or member of the license holder or any person acting in concert with such person" --
Q I'm sorry. Go ahead.
A -- "violates any of the regulations" --
THE REPORTER: Slow down a little bit.
Q And I may have given you the wrong citation. I wanted the ones about appeal from denial, section 14.
A Okay.
Q That's what I wanted. I'm sorry.
A You ready? "Any nonprofit organization whose application for a license hereunder shall he be denied by the Sheriff pursuant to these regulations shall have the right to

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appeal such denial to the Macon County Commission and to the Circuit Court of Macon County in the same manner as an appeal of the revocation of a license issued hereunder may be appealed pursuant hereto provided. However, that such organization shall not operate any bingo game until such application shall have been granted" --
Q All right.
A -- "and a license issued pursuant to any order."
Q Okay. So, you were aware that under the first set of rules and regulations a charity who had been denied a license had a right to appeal. That's what the rules says, doesn't it?
A Yes, sir.
Q Now, at some point in time -- and I think your complaint states it -- that you reached a conclusion because he had not acted upon your -- the application of Reach One Teach One, you concluded it had been denied. Don't you allege that, in affect, in your

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complaint?
A Yes, sir. That was the way that I felt it had been treated.
Q All right. Did you appeal that denial to the Macon County Commission?
A I went before the Macon County Commission.
Q I'm asking you did you appeal the denial of your license to the Macon County Commission?
A Formally, no, sir.
Q All right. And you did not seek to go into the Circuit Court of Macon County through an appeal route, did you?
A No, sir.
Q You also recognized -- and I refer you to Exhibit Four to the Sheriff's deposition -- and ask you to review -- I think it's the same section 14. And isn't that a similar -- Doesn't that give an applicant for a license the right to appeal if the license is denied; doesn't it do that?
A Yes, sir.
Q And you did not utilize that appeal route, did you?

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A No, sir.
Q And let me show you in Exhibit Six, section 14. That's the second amendment. Isn't there a similar provision for an appeal?
A Correct.
Q So, either one of the three or all three of them have appeal procedures, and you did not exercise that right under any of them, did you, before you filed your lawsuit?
A No, sir.
Q Okay. Now, tell us any other groups that you have gone to in an effort to have the Sheriff grant the application of Reach One Teach One so that you could become an operator, or so that MCII can become an operator?
A Other than -- Again, if you'll state the ones that are --
Q I think you've admitted it, if my recollection is correct – and it may be wrong – Macon County Commission, you went to the Chamber of Commerce. You went to the Rotary Club. Any other groups?

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A I went to the Rotary Club to ask them --
Q No. I'm not asking – I'm asking you whether there are any other groups other than those three that you made presentations to for the purpose of trying to get the Sheriff to grant you an application?
A Yes, sir. I made a presentation to Main Street.
Q Main Street. Now, tell us what Main Street is.
A Main Street is a charity whose purpose is to kind of try to keep the prestige of the beautiful buildings in downtown Tuskegee and basically tries to do good deeds in the City of Tuskegee.
Q Did you offer Main Street – Have you entered into a contract with the Main Street charity to be one of your charities under MCII?
A No, sir.
Q As a matter of fact, you have only approached one charity, and you only have one charity who is prepared to submit in

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their application your name as an operator – or MCII as an operator; isn't that correct?
A Yes.
Q Now, who do you bank with?
A A lot of different banks.
Q What's your principal bank?
A I would say Colonial Bank would be my principal bank.
Q Okay. Have you ever had a bank account at any other –
A Yes, sir.
Q – financial institution? Which ones?
A Aliant, Wachovia, Sterling.
Q Are you indebted to any financial institutions?
A Yes, sir.
Q Tell us the various financial institutions that you are indebted to.
A Aliant, Sterling.
Q Let's take them one at a time. Aliant, approximately how much do you owe them?
A I'd have to look at my financial statement.

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Q In your best judgment.
A I know my overall indebtedness. I really don't know at each specific bank.
Q What's your total overall indebtedness?
MR. THOMAS: We are going to note an objection on the basis of what relevancy is there. Nothing under the rules goes to anybody's credit worthiness. I think the standard that's imposed by the rules is that the Sheriff would do a background check. I haven't heard any testimony from him about he checked people's financial records.
MR. GRAY: You haven't asked.
Q Go ahead.
A Do you want my net assets or my liabilities?
Q I asked you how much do you owe. You said you could tell me approximately --
A Around $5 million.
Q About $5 million dollars. Okay. And that -- Give me the names of the various

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financial institutions that you are indebted to.
A Aliant, Colonial, Bank Corp South, Wachovia.
Q If you had had a regular operating account that you operate out of, which account would you say -- which bank?
A Colonial.
Q Colonial. Has that been the case always?
A No, sir.
Q All right. Which one did you have before?
A Aliant.
Q Huh?
A Aliant.
Q And before Aliant?
A I guess since I've been in business or been a functional business person, it would have been Aliant. So, it would have been Aliant and then shifted to Colonial.
Q Okay.
MR. GRAY: Mark that as the next exhibit, please.
(At which time, the referred-to document was

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marked as Defendant's Exhibit No. 5 by the Reporter.)
Q Let me show you, Mr. Thomas, Defendant's Exhibit Five and what was referred to in Sheriff Warren's deposition as Plaintiff's Exhibit 13. Tell us what that is.
A It appears to be a check from Milton McGregor to David Warren.
Q Where did you get it from?
A I first saw it with my attorney.
Q When was that?
A Probably 120 days ago.
Q 120 days ago would be --
A Spring of '06.
Q Spring of '06.
A Yes, sir.
Q Where did you see it?
A I saw it at my attorney's office.
Q Which attorney's office is this, now?
A Greg Carr.
Q Greg Carr. Where did he get it from?
A It was deposited in his office through the mail slot.

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Q It was what?
A He told me it was deposited through his office in the mail slot.
Q Deposited in his office through the mail slot. And where is his office located?
A 915 South Hull Street.
Q 915 South Hull?
A Uh-huh (positive response).
Q Did he tell you what day that was presented?
A No, sir.
Q What were you supposed to do with this check, or what did you do with it?
A I looked at it.
Q What else did you do with it?
A It went in the file. I did nothing with it.
Q At the time you -- your lawyer referred this check to you in the deposition of Sheriff Warren, he had just asked Sheriff Warren whether he had received any contributions from Mr. Milton McGregor. Now, did you understand your lawyer to be asking the Sheriff that this Milton McGregor was the same Milton McGregor who is the CEO of

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Victoryland Macon County Greyhound Park; is that correct?
A Yes, sir.
Q It wasn't a different McGregor.
A I don't know another Milton McGregor. So, yes, sir.
Q And were you tendering this check to be a check that was issued on an account of Mr. Milton McGregor, the CEO of Victoryland and signed by him?
A Was I tendering?
Q Yeah. When you had your lawyer to ask the Sheriff about that, were you doing that with the understanding that the Milton McGregor that's referred to on this check is, in fact, Milton McGregor, CEO of Victoryland?
A The file was turned over to, attorney-wise, my attorney Kenneth Thomas. And what he did with it, again, is --
Q I didn't ask that. Well, let me ask you this way: Did you understand or do you or did you believe that this was a check issued by Milton McGregor, CEO of Victoryland, to

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David Warren? That's what you believe.
A I took it for face value, yes, sir.
Q Well, you took it for face value.
A I took it out exactly as it reads.
Q All right. Did you believe that the Milton McGregor, or whatever the name is on that check is, in fact, the same Milton McGregor as the CEO of Victoryland? Was that your understanding?
A I do not know another Milton McGregor. I felt that that would be the case, yes, sir.
Q Is that answer yes?
A Yes, sir.
Q Okay. And you tendered that check and had your lawyer to tender that check to indicate that the Milton McGregor that's here is the same Milton McGregor who is CEO of Victoryland, did you not?
A Explain tender.
Q You gave it to him.
A No, sir, the file was turned over by Attorney Greg Carr.
Q Well, I mean, he had it. And as a matter of

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fact, I believe, if I'm not mistaken, in the deposition I saw you send that check up.
A That's not correct.
Q And I may not have.
A That's not correct.
Q Okay. Well, I didn't see it. But, anyway, it was given to your lawyer. And all I'm trying to get you to understand -- to ask you and I think I understand it, you intended -- you thought the McGregor here was Milton McGregor who is CEO of Victoryland, didn't you?
A Yes, sir.
Q And you still think that.
A Yes, sir.
Q Do you tell this Court that in your best judgment, that is who this check is issued from?
A Yes, sir.
Q Have you made any independent investigation -
A No, sir.
Q -- to determine that?

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A No, sir.
Q Did you think you ought to do that before you, in affect, accuse the Sheriff of lying because you asked him did he make a contribution. And then you get up and give him a check of -- what purports to be a check of five thousand dollars from the person that you had asked about. You don't think you needed to have made any investigation?
A I didn't write Mr. Thomas's -- Kenneth Thomas's case. I did not know the questions that were to be asked. I did not ask any specific questions of David Warren. But, yes, the check does read Milton McGregor. And I would assume that it is a check from Milton McGregor to David Warren.
Q And you made no investigation to determination whether it was, in fact, that?
A I turned it over --
Q I'm asking you did you make an investigation?
A No, sir.

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Q Did you ask your lawyer to make any investigation?
A No, sir.
Q Since Tuesday, have you made any investigation?
A No, sir.
Q Have you attempted to make any investigation?
A No, sir.
Q Do you plan to attempt to make any investigation to determine?
A No, sir.
Q And are you, in fact, saying that Milton McGregor, CEO of Victoryland, made this check to Sheriff Warren?
A No, sir.
Q Is that your contention?
A No, sir.
Q What do you contend by having this check presented in this proceeding?
A I contend that there is a check that reads that it was remitted from Milton McGregor, P.O. Box 26065, Tuskegee, Alabama, to David

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Warren, and the document shall speak for itself.
Q And that Milton McGregor was the CEO of Victoryland. Isn't that the only reason you would have introduced it in the context that it was initially introduced?
A I did not introduce the check.
Q Well, I mean, it was introduced in the proceeding on your behalf.
A It was part of the large file that was handed over to the attorneys, and I did not know the check was going to or not going to be introduced.
Q So, you have not then and have not now. Do you know plan to investigate or determine whether or not this is, in fact, the same Milton McGregor that you thought it was. Because you thought it was Milton McGregor, president or CEO of Victoryland, didn't you?
A I thought it was the only Milton McGregor that I knew.
Q Well, is that the one at Victoryland?
A And it's a Tuskegee address.

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Q He doesn't live in Tuskegee, does he?
A It's a P. O. Box Tuskegee address.
Q Does Milton McGregor live in Tuskegee?
A No, sir.
Q Did you ever check, Mr. Thomas, to determine whether or not Milton McGregor has a Post Office address in Tuskegee at Post Office Box 26065?
A No, sir.
Q Was there anything to stop you from checking that if you wanted to determine truthfully whether this was, in effect, true?
A No, sir.
Q But you didn't do it.
A No, sir.
Q You have an account at Sterling Bank, don't you?
A No, sir.
Q You have had an account at Sterling Bank?
A Yes, sir.
Q And didn't you have an account at Sterling Bank in May of '04?
A I had a loan at Sterling Bank, and the

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account went away when I paid the loan off. I don't know if that loan was at Sterling Bank in 2004.
Q And when did you pay the loan off?
A I do not know.
Q Was it '04 or '05?
A I moved the loan to Bank Corp South, and I'd have to check and see when it is. I specifically don't know when it was moved.
Q Did you check Sterling Bank to see if Milton McGregor, the CEO of Victoryland, had an account there or had an account there at that time?
A No, sir.
MR. GRAY: We offer Exhibit Five to the deposition.
Q You say you gave a whole file of material to someone that contained this check?
A No, sir.
Q What did you do?
A I said that Greg Carr, attorney, gave an entire file to my attorney, Kenneth Thomas.
Q And in that file was this?

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A Yes, sir.
Q Were there any other checks in that file to David Warren from anyone else?
A To my knowledge, no, sir.
Q Was there any other checks in that file from Milton McGregor to anyone else?
A To my knowledge, no, sir.
Q Have you or your lawyer received anonymously any other similar material like this where it just appeared in a box?
A No printed material, no, sir.
Q Have you gotten any other material that just anonymously appeared?
A Lots of phone calls but no material.
Q No documents?
A No documents, no, sir.
Q Lots of phone calls on what?
A On my, I guess, battle, for lack of better description, in Macon County, information.
Q You're not the only person who wants to have an operator's license in Macon County, is there?
A I know of another entity who's trying.

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Q **As a matter of fact, there would be any number of folks who would like to have operator's license; isn't that correct? Wouldn't you think so?**
A I would think so.
Q **Because they would have the same interest you have, and that is, to make money.**
A I would think so.
Q **Okay. Now, let's go back to various and sundry things you've done to try to get a license. Can you tell us anything else you have done that you have not testified to in order to obtain an operator's license for MCII and a bingo license for Reach One Teach One?**
A I'd have to look and see what I've actually testified to to see if that's everything. I know I've worked awful hard. If I can be furnished a list of what I have said, I could rule out what I have not said. We've been here for four hours.
Q **Have you talked to any other persons that we have not -- you haven't testified to about**

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trying to get a license?
A I've talked to a slew of people about trying to get a license.
Q **Did you ever make a contribution to Sheriff Warren's campaign --**
A No, sir.
Q **-- during either one of his races?**
A No, sir.
Q **Did you make a contribution towards Mr. Maloy's campaign?**
A No, sir.
Q **Did you make a contributions to any PAC during the last primary elections, any PAC for any reason?**
A Yes.
Q **Which PAC did you make a contribution to?**
A There were two PACs with three-letter names.
Q **With what?**
A Three-letter names.
Q **Three letter --**
A I mean, synonyms. A, B, C or B, A, D or something along -- whatever. I don't recall the exact names.

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Q **And that was -- How many of those was it?**
A Sir?
Q **How many?**
A Two.
Q **Two? And how much did you contribute?**
A A thousand dollars apiece.
Q **Was one of those STA?**
A I'm not certain of the names, but I'm certain they were three-letter names.
Q **And one was PAC?**
A Yes, sir, they both were three-letter-name PACs. I don't recall the names.
Q **Who did you give the money to to go to that PAC?**
A I gave the checks to Greg Carr.
Q **Checks to Greg Carr.**
A Yes, sir.
Q **All right. And he was supposed to give them to whom?**
A I would assume to a representative of those PACs. I believe they were in Birmingham.
Q **Do you have your canceled checks?**
A Yes, sir.

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Q **Approximately what was the date of those checks?**
A I don't know the date.
Q **In your best judgment.**
A I believe it would have been in May.
Q **In May? Had you made any contributions to those PACs before?**
A No, sir.
Q **Who solicited these contributions?**
A From the PACs?
Q **From you.**
A Jim Goodrow (phonetic).
Q **Jim who?**
A Goodrow.
Q **Who is Jim Goodrow?**
A A friend of mine.
Q **What does he do?**
A He's a pilot. I'm not sure what his everyday job is.
Q **He's a pilot where?**
A I'm not certain who he flies for.
Q **Do you know who he has flown for?**
A I think at one point he flew for Richard

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Scrushy.
Q He's one of Richard Scrushy's pilots, isn't he? And he was the one who solicited the funds for both of the PACs, or one of the PACs?
A Both of them.
Q You had a real financial and pecuniary interest in who would be Sheriff of Macon County in order to get a bingo license, didn't you?
A Chief Maloy, at that point, running for Sheriff Maloy, had made it public that if he were elected that we would get a license and rule changes.
Q All right. So, what Maloy had promised you and others that, if he was elected, he would end up seeing that you got a license?
A No, sir, he never said that.
Q Well, he promised you what?
A He never made me any promise.
Q Well, you just said it. The record will show what you said.
A He never made me any promise.

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Q What did he say if he was going to be elected?
A He said that he would expand gaming in Macon County.
Q He would expand it.
A Not to me personally.
Q Did you ever talk to him about it?
A On one occasion.
Q When was that?
A It would have been earlier in May, I would assume.
Q And where was that?
A At the airport.
Q And isn't it a fact that you made the contribution to those PACs with the understanding that those PACs were going to make contributions to Maloy's campaign; isn't that a fact?
A No, sir.
Q Is your opinion that they were not going to contribute toward him?
A No, sir, that was not discussed at that meeting.

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Q Did you know that the same PACs that you made a check to that those PACs ended up making contributions to Maloy's campaign?
A Yes, sir.
Q And do you know they made contributions in the thousands of dollars?
A I think they were each a thousand dollars.
Q That's your contributions.
A Yes, sir.
Q And don't you know that the PACs that you gave that money to gave at least that amount of money to Maloy's campaign?
A I did not know that.
Q Okay. Have you looked at Maloy's financial statement?
A No, sir.
Q Have you looked at the financial report of those PACs?
A No, sir.
Q Prior to the time you became interested in a bingo license, had you made a contribution to any other PAC?
A No, sir.

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Q Have you made a contribution to a PAC since then?
A No, sir.
Q And you were actively supporting Maloy's campaign; isn't that right?
A No, sir.
Q Didn't you want him elected because he had promised that he was going to expand gaming? Are you saying you didn't want him elected?
A In actuality, no, sir.
Q You didn't want him elected.
A No, sir.
Q You wanted Sheriff Warren reelected.
A In actuality, yes.
Q Why?
A Because I had a pending lawsuit against the Sheriff, and I felt that if Maloy were elected that he may or may not do anything. And I felt very confident in my place with the pending lawsuit against Sheriff David Warren.
Q And you made the contribution that you knew was going to go to Maloy's campaign not

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withstanding that. Was that supposed to be assurance or insurance?
A No, sir.
Q **What was it supposed to be?**
A It was a contribution.
Q **Okay. Did you make a contribution to any other race in Macon County?**
A No, sir.
Q **Approximately when did you say you had the conversation with Mr. Maloy?**
A I don't remember when the race was. I would say in May.
Q **I think you've told us that the land upon which you plan to build the facility on to have an operator's license is not in your name but -- or is in your name but not in the MCII's name. Now, have you purchased any equipment or machines to go into the facility?**
A I have signed a purchase agreement.
Q **With whom?**
A Gaming Capital Group.
Q **Game and Capital Group?**

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A No, sir. Gaming Capital, with an A, Group.
Q **All right. And where is that group located?**
A They're currently located in Chicago, Burridge, Illinois.
Q **And what does that agreement provide?**
A That they would provide 2000 bingo machines to MCI.
Q **For how much?**
A $30 million dollars.
Q **Is the contract signed?**
A Yes, sir, it was signed. But it had some leeway, some adjustments, for interest rates, stuff like that.
Q **But there is a signed contract?**
A Yes, sir.
Q **Did you pay any money pursuant to that signed contract?**
A No, sir.
Q **So, you have not paid any money pursuant to the contract to buy machines.**
A No, sir.
Q **But there is a contract.**
A Yes, sir.

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Q **And it is with the company you have just said.**
A Correct.
Q **And it is for that amount.**
A No, sir.
Q **Does Attorney Glassco -- Grasso, your other lawyer, have any relationship to that company?**
A No, sir.
Q **None at all?**
A No, sir.
Q **You sure?**
A To my knowledge, no, sir.
Q **Okay. What about Tim Goodrow -- Jim Goodrow?**
A No, sir.
Q **Where does Jim live now?**
A I think he lives in Orange Beach.
Q **Orange Beach. Have you entered into any other contracts with any -- Now, the contract that you talked about with -- You say it's Gaming and what?**
A Capital, C-A-P-I-T-A-L, Group.

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Q **And they're located where?**
A They are located in Chicago, or a suburb of Chicago.
Q **Do you know whether or not Gaming and Capital -- How did you get in touch with them?**
A Dave Hanlon and I were discussing the machines and the financing of machines, and a young man by the name of Rob Miller entered the picture and flew to Montgomery to talk to me about the machines and about raising the equity.
Q **And who is Rob Miller?**
A He's the principal of Gaming Capital Group.
Q **Now, is that contract with MCII or is it a contract with you and them?**
A MCII.
Q **And where is that contract kept?**
A My attorney Greg Carr would have a copy.
Q **Do you have any contract with any other person, firm, or corporation for the purchase of anything in connection with a facility to operate bingo?**

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A No, sir.
Q Are you negotiating with any other person, firm, or corporation to get any type of equipment or anything else to be used in operating with bingo?
A I have also spoken with Sierra Design Group about some additional machines, but I have no contracts.
Q Who is that?
A Sierra Design Group.
Q Spell it for me.
A S-I-E-R-R-A, Design Group.
Q And who are they?
A They are a machine manufacturer.
Q And where are they?
A I'm not certain where they're headquartered.
Q And who, with that group, have you talked with?
A Rich Distasi.
Q Could you spell his last name for me?
A Rich D-I-S-T-A-S-I.
Q And they're located where?
A I'm not certain where they're located.

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Q Where did you contact him?
A He contacted me, and we met.
Q Go ahead.
A We met.
Q Where did you meet?
A At my office.
Q When?
A This would have been -- I sold my office and it was torn down for the Midtown Wal-Mart, so before Buddy McClinton started that. It would have been in 2004.
Q So, you moved your office in the last few months?
A Correct. No, sir, well over two years ago.
Q Okay. Now, have you borrowed any funds at all that have been used in connection with the possibility of obtaining a license to operate bingo?
A Specific funds?
Q Have you borrowed any money for that specific purpose?
A Yes, sir.
Q What did you borrow and from whom?

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A A million dollars.
Q A million dollars from where?
A From Al Gibbs.
Q From who?
A Al Gibbs.
Q A-L? Spell his last name.
A Gibbs, G-I-B-B-S.
Q Who is Al Gibbs?
A A fraternity brother and good friend of mine.
Q What type of security did you give to him for that money?
A He has got a personal guarantee.
Q Personal guarantee by whom?
A Frank Thomas.
Q I mean, that's you.
A Yes, sir.
Q Well, was the money loaned to you, or was it loaned to MCII?
A I don't recall whether the money was loaned to me or to MCII. I'm fairly certain the money was loaned to Frank Thomas, the Third, to me.

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Q All right. Then if it was loaned to you, then you're not guaranteeing your own loan, are you saying that?
A I'm guaranteeing that if it went south, that I owed him one million dollars.
Q Well, I thought you borrowed the million dollars from him directly.
A I did.
Q And are you saying that not only are you obligated, then you're saying that you are the security for it too?
A I'm saying --
Q The guarantee?
A No, sir. I'm saying that I personally guaranteed it with my financial statement and my person -- myself.
Q Did you sign a note?
A Yes.
Q Did you sign a mortgage?
A No.
Q Does he have any kind of security other than your note?
A There is supposed to be some land out of it

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at some point, but it's yet to be determined. So, as for now, no, sir.
Q **Did he write you a check for the million dollars?**
A No, sir.
Q **How did you receive the million dollars?**
A I believe it was two hundred thousand initially and then eight hundred thousand dollars.
Q **When did you receive the two hundred thousand?**
A February of '06.
Q **February of '06?**
A Yes, sir.
Q **And the eight hundred thousand?**
A February of '06.
Q **Now, is there one note or two notes that's signed?**
A One note.
Q **And that note is dated approximately when?**
A February '06.
Q **February –**
A Of '06.

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Q **– of '06. And you have a copy of that note?**
A Greg Carr would have a copy of that note.
Q **And you have actually received in cash the million dollars?**
A No, sir.
Q **How much have you received in cash, Mr. Thomas?**
A The money went to Donald Watkins.
Q **The money went to Donald Watkins?**
A Yes, sir.
Q **The million dollars went to Donald Watkins?**
A Yes, sir.
Q **Now, who is Donald Watkins?**
A A friend.
Q **A friend to whom?**
A A friend of mine.
Q **Friend of yours?**
A Yes, sir.
Q **And how do you know Donald Watkins, your friend?**
A I met him through Jim Goodrow, a friend.
Q **When was the first time you met Donald**

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Watkins?
A January of '06.
Q **Now, you had your friend Al Gibbs to contribute directly to Donald Watkins a million dollars?**
A Yes, sir.
Q **Now, where does Al Gibbs live?**
A Birmingham.
Q **What does he do?**
A He's in the hand core pipe business.
Q **In the what?**
A Corrugated pipe.
Q **Corrugated pipe. What was Donald Watkins supposed to do with the million dollars?**
A I initially felt that I was hiring him as an attorney, and that was a retainer to come and help me get my facility in Macon County. He then elected not to be an attorney and to be a consultant.
Q **So, that million dollars was paid initially for attorneys fees; is that right?**
A No, sir.
Q **Well, tell the Court what it was paid for.**

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A It was paid as a retainer for consulting fees.
Q **For consultant? Now, Donald Watkins is the – Tell me who the Donald Watkins is you're referring to. There may be two or three of them.**
A A friend of mine, Donald Watkins.
Q **And that's all you know?**
A What would -- a friend of mine, Donald Watkins.
Q **Is he the attorney?**
A He is an attorney.
Q **Is he the former City attorney for the City of Birmingham?**
A Yes, sir.
Q **Is he the former attorney who used to be in my law firm in Montgomery?**
A Yes, sir.
Q **Is that the same Donald Watkins?**
A Yes, sir.
Q **I just wanted to be sure it's the same person. And you paid Donald Watkins a million dollars to serve as a consultant for**

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what?
A For Macon County Investments.
Q What was he supposed to do for Macon County Investments?
A Help me form a team, a legal team, to move Macon County Investments forward.
Q Now, he was not to be the team, and this was not for attorneys fees, but all he was going to do was get together a legal team.
A Correct.
Q Did you have a contract in writing with him?
A Yes.
Q All right. And what's the approximate date of that contract?
A Again, I'm saying February of '06.
Q And what does the contract in effect provide?
A If provides that Donald will coordinate the legal battle for Macon County Investments to move forward in Macon County.
Q And has that consultation fee been fully earned already?
A No, sir.

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Q How much of it has been fully earned?
A I would say none of it.
Q None of it? Now, that's separate and distinct from the payment of your lawyer fees. And tell the Court, if you will, who all are your lawyers in this case.
A On the pleadings, the lawyers are the lawyers as you see: Kenneth Thomas, Ramadanah Salaam-Jones, and Gary Grasso.
Q Off of the attorneys -- Off of the pleadings, who else are your lawyers?
A. Well --
Q -- in this matter advising you on this?
A Greg Carr is a good friend, my personal attorney and lawyer. And Bobby Segall has been contacted recently regarding the case.
Q He is now representing you as plaintiff in this lawsuit?
A No, sir.
Q He has been contacted by you for that purpose?
A No, sir.
Q But tell us what you mean about Bobby Segall

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is in it.
A He has simply been contacted about this case. He is not actively, I guess, on retainer for Frank Thomas or MCI.
Q Is he a part of the legal team?
A No, sir.
Q Do you know whether or not he has conferred with the legal team?
A No, sir, I do not know.
Q Who else is on the legal team?
A That's it.
MR. GRAY: Counselor, I humbly apologize for having underestimated the million dollar fee. I should have said multi-million dollars. Who told me that at first? You did, and I'm sorry.
MR. THOMAS: Thank you.
MR. GRAY: It's only because in my old age when I was coming along to talk about a million dollars is something almost unheard of. Now,

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people talk about it like it's nothing. But I'm happy to see it.
BY MR. GRAY:
Q Have you made any contributions at all to Reach One Teach One?
A Yes, sir.
Q How much contribution have you made?
A Ten thousand, five hundred ($10,500) dollars.
Q When did you do that?
A I would have to look at the check. It would have been in -- I would say July.
Q July of what?
A '06.
Q July '06?
A Yes, sir.
Q Since this lawsuit has been pending.
A Correct.
Q Had you made any contribution before then?
A No, sir.
Q Had you made any contributions at all to Mr. Walker --
A No, sir.

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Q -- or anyone else connected with Reach One Teach One?
A I have paid Mr. Walker travel expenses in the amount of five hundred ($500) dollars on three occasions through Reach One Teach One of America.
Q Travel expenses from where to where?
A I understood that at the time that he came to meet me he was in Florida.
Q Don't you understand that his principal residence is in Florida, or do you know?
A No, sir. I understand his principal residence is in Tuskegee.
Q Okay. And he's temporarily living in Florida?
A Yes, sir.
Q Do you know how long has he temporarily lived in Florida?
A No, sir.
Q In your best judgment?
A I do not know.
Q Okay. What are the dates of these travels?
A I would have to refer to my checkbook.

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Q You do have a checkbook?
A Yes, sir.
Q And those are dates of his travel here in connection with the license process?
A One of the trips was Reverend Walker distributed some checks to some local charity organizations in Macon County.
Q Okay. Now, you gave checks to -- Now, was this Frank Thomas giving checks -- Now, these checks you talked about so far, all these checks were really checks off your personal account because you told us that MCI didn't have any.
A Correct.
Q Okay. So, from your personal account, you contributed -- are the checks you're talking about to Mr. Walker.
A Yes, sir.
Q The check you talked about, to Reach One Teach One. And then you gave checks to Mr. Walker to other charities in Tuskegee or in Macon County.
A I never wrote any checks to Walter Walker.

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I've only written checks to Reach One Teach One of America.
Q Okay. The transportation checks went to Teach One?
A Yes, sir.
Q Okay. And the travel checks went the same way.
A Yes, sir.
Q What about the checks to the charities? Which charities?
A I wrote a check to Reach One Teach One in the amount of ten thousand, five hundred ($10,500) dollars. Reverend Walker then had the discretion to distribute that money to Macon County charities as he seen fit.
Q So, you're saying that the ten thousand ($10,000) dollar -- ten thousand, five ($10,500) that you gave on July 6th was not just for Reach One Teach One, but that was so Mr. Walker could contribute those to whoever he wanted to contribute them to --
A Yes, sir.
Q -- is that right? Did he give you a report

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back on how he dispursed -- how he spent the -- how the ten thousand, five hundred ($10,500) dollars was used?
A Yes, sir.
Q Okay. Tell us how it was used.
A Well, it was three different checks to three different schools. He gave me the cashier check receipt.
Q All right. And do you have those cashier check receipts?
A Yes, sir.
Q And how much was it and to which schools?
A I believe it was George Washington Carver Elementary. One was to --
Q To George Washington Carver Elementary fo how much?
A I believe two thousand.
Q Two thousand. All right.
A Another two thousand was to a day care center. I can't recall the name.
Q All right.
A I believe. And the other two thousand, I believe, was to another school.

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Q **To another school. Do you know what happened to the other -- the difference between the six thousand and the ten, five?**
A No, sir.
Q **Did he give you a written report on it?**
A He gave Greg Carr, I feel, a written report.
Q **Huh?**
A He gave Greg Carr, I feel, a written report.
Q **All right. So, there is a written report.**
A I said I believe there is a written report.
Q **But you know there are cashier's check stubs for each one of these three that you had?**
A Well, I was actually mailed the cashier's checks back from Deborah Biggers, the Macon County school attorney. So, I actually have the checks themselves back to me.
Q **What are you saying? The checks were never cashed?**
A Correct.
Q **But the three checks that you sent -- you didn't send them. You're saying three checks were given by Mr. Walker to the three schools.**

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A No, sir.
Q **Okay. Tell me what happened.**
A The three checks were given by Reach One Teach One to the three schools.
Q **All right. But I thought you said you personally gave it to Mr. Walker for the purpose -- and left it up to him to distribute it to the schools.**
A The money was given to Mr. Walker on the behalf of Reach One Teach One.
Q **I understand.**
A It was a cashier's check to Reach One Teach One.
Q **Yes.**
A Reach One Teach One then wrote three cashier's checks or had three cashier's checks written to three schools. Those checks were mailed back to Frank Thomas personally at the office of Greg Carr accompanied by a letter from Ms. Deborah Biggers that the Macon County school system would not accept the money because it was not explained as to how they were supposed

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to use the funds. The checks were mailed back to Greg Carr's address to me. I did not write the checks, but they were mailed back very awkwardly to me.
Q **How would anybody know to send it to you or to have you connected with it at all?**
A Welcome to Macon County.
Q **But that came from Attorney Deborah --**
A Biggers. I have a letter.
Q **Do you have that letter with you?**
A In fact, I think I do. I have the letter, Mr. Gray.
Q **All right.**
A Would you like for me to read it?
Q **I would like to see it. What was the purpose of contributing the money to the schools?**
A My argument all along has been that I wanted to help the Macon County school system.
Q **And that was the purpose?**
A Yes, sir.
Q **Did you return these checks with a letter to Ms. Biggers saying: Here, use the check,**

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and the purpose of it is I'm interested in the school system; did you do that?
A No, sir.
Q **You still have the checks?**
A No, sir.
Q **Did you turn them back to the bank that issued them?**
A I put the money back in my account.
Q **You didn't give it -- Well, you endorsed the checks?**
A Sir?
Q **These checks were made payable to these schools.**
A Yes, sir.
Q **How could you put it back into your account?**
A Reach One Teach One told me I could put the money back in my account when the schools would not take the donation.
Q **But the checks were made payable to the schools.**
A That's correct.
Q **And you endorsed the school's name and deposited them into your account; is that**

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what you did?
A No, sir.
Q What did you do?
A No, sir.
Q What did you do?
A I don't remember exactly what I did.
Q Which account did you deposit them into?
A It would be my Colonial Bank account.
Q And would that have been shortly after this letter that's dated March 31st, 2006?
A Yes, sir.
Q And this letter was written before you filed an application. Well -- Excuse me, please.
A No problem.
(Thereupon, a discussion was held off the record.)
Q Was this contribution being made to these schools in hopes that that would encourage the Sheriff to issue you a license?
A Not directly, no, sir.
Q Indirectly?
A The contribution was made to the schools for PR.

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Q For what?
A We took a picture in the Tuskegee News simply to show again that I care and I wanted to put money into the Macon County school system.
Q But that was all at the same time you were negotiating with the Sheriff about adopting your rules and regulations that had been introduced in evidence. It was during that period of time.
A What is the date again?
Q March 31st, '06.
A Yes, sir.
Q Okay. Were you trying to give the public the impression that you had three charities committed to you --
A No, sir.
Q -- to serve as operator for them?
A No, sir.
Q Because you did not have a George Washington Elementary School, Lewis Adams, North Tuskegee Public as one of your charities. They had not applied for a license through

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you as a charity, had they?
A No, sir.
Q Do you now know that they had already applied for charity funds --
A No, sir.
Q -- and participating in bingo?
A No, sir.
MR. GRAY: We offer Exhibit Six.
(At which time, the referred-to document was marked as Defendant's Exhibit No. 6 by the Reporter.)
Q Do you -- What else have you done public relation wise? Did you circulate a newsletter throughout the county telling people what you were going to do?
A Yes, sir.
Q Do you have a copy of that?
A No, sir.
Q We might just have one.
At which time, the referred-to document was marked as Defendant's Exhibit

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No. 7 by the Reporter.)
Q Tell us what seven is, please.
A It is a four-page insert that was placed in the Tuskegee News. And it's date is November of 2005. I think the distribution was 15,000.
Q So, you not only had it put in the newspaper, but you distributed 15,000 of them?
A No, sir, the newspaper distributed 15,000.
Q Oh, it was an insert that went in the newspaper. And what was the total cost of that to be done?
A I had put fifteen thousand ($15,000) dollars in escrow with Mr. Paul Davis. The charge was supposed to be fifty two hundred and fifty ($5,250) dollars. He doesn't seem to want to give me back ninety-seven hundred and fifty ($9,750) dollars of it.
Q So, as of now you paid fifteen thousand ($15,000) dollars?
A Correct.
Q And you're claiming he owes you some back.

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A Yes, sir.
Q But he hasn't given it to you.
A Correct.
Q Didn't you also have some of these inserts that were placed in stores and other places throughout the County?
A Mr. Gray, my deal with Mr. Davis was he was going to distribute 15,000 of these inserts. And I'm not certain exactly how or where he did it.
Q And in here throughout, you end up saying that Sheriff David Warren holds the key to the process. And because he hasn't been making -- hasn't given you a license, that's stopping all these things you were going to do. Is that what you're telling the public?
A Yes.
Q Okay. Did you have all of the material contained in here composed done under your directions?
A Mr. Davis did some.
Q But I mean, he did it for you.
A Yes.

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Q And you paid him for it.
A Yes.
Q And all of the things set out herein is true; is that correct?
A I would say so, yes, sir.
MR. GRAY: All right. We offer Defendant's Exhibit Seven.
MR. THOMAS: No objection.
Q What else have you done in addition to that to get Sheriff Warren to change his rules so you can get a license?
A Begged and pleaded.
Q All right. I understand that. Have you produced any other things?
A No, sir.
Q Did you also make a contribution toward the Macon County Citizens for Progress?
A No, sir.
Q You know about that group, don't you?
A I do.
Q You know Tony Haygood, don't you?
A I do.
Q And you know that he claimed to be chair of

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that group, don't you?
A Yes, sir.
Q And you know they ran a lot of slick adds in the paper against Sheriff Warren.
A I do.
Q And all of that was for the purpose of trying to get the Sheriff to give you a license; isn't that right?
A No, sir.
Q What was it for?
A I was not involved with Macon County Citizens for Progress. They asked me to speak at one of their meetings. I had nothing to do with Tony Haygood, or that, other than speaking at one meeting.
Q Did you speak at the meeting?
A Yes, sir.
Q Who asked you to speak?
A I don't recall if it was Harold Powell that called me or who called me.
Q Who?
A Harold Powell. I'm not certain who exactly called me.

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Q And when was that?
A Again, it would have been within the month before the Sheriff's election.
Q Within the month. Isn't it a fact the purpose of that group was to defeat Sheriff Warren? Didn't you gather that from that meeting? Wasn't it clear?
A I think the purpose of the group was to try to move Macon County forward.
Q Wasn't it clear that as between Sheriff Warren and Mr. Maloy they were in favor of Mr. Maloy?
A Yes, sir.
Q Okay. And you appeared only before that group once.
A Yes, sir.
Q Did you appear before any other group?
A No, sir.
Q Have any members of your family made any contribution toward Maloy's campaign --
A No, sir.
Q -- or the Sheriff's campaign?
A No, sir.

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Q Now, you claim in your complaint, I believe, that you had purchased land for this facility. And really, as I understand the application and the operators, you were not personally supposed to be an operator, were you, of the facility as set out in the application, Plaintiff's Exhibit Nine, to the Sheriff's deposition?
A Explain that question.
Q You were not individually designated as the proposed operator, were you?
A Again, explain that question.
Q Were you or was Macon County Investments, Inc., the proposed operator for bingo trying to get an operator's license. Who was it?
A Correct, yes.
Q Who?
A Macon County Investments.
Q All right. So, don't you allege in your complaint that Macon County Investments, Inc., had the land and owned the land?
A I'm not looking at the complaint.
Q Okay.

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MR. BOLTON: Paragraph 17.
(At which time, there was an off-the-record discussion.)
Q Let me read from paragraph 17 of your original complaint. And this is what it says: Based upon those verbal assurances, the MCI has purchased land for the facility, began construction of the facilities, and negotiated financing to purchase games for the operation of the facility." You alleged that in your complaint, didn't you?
A (Nodding in the affirmative.)
Q Both in your original complaint and in your amended complaint; isn't that correct?
A Again, I'd have to hear the amended complaint, but, yes, sir. I would agree with you.
Q I think it's 19 in your amended complaint. Read that to us.
A Read it out loud?
Q Yes, for the record.
A "Based upon those verbal assurances, the MCI has purchased land for the facility, began

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construction of the facility, and negotiated financing to purchase games for the operation of the facility."
Q Now, you alleged that in your amended complaint in this Court. Now, that's paragraph 19. MCI has not purchased a facility, has it? Has not purchased the land for the facility to be on, has it?
A No, sir.
Q Okay. It has not began construction on that facility, has it?
A The site was cleared and the site work was done to start leveling and grading the site. So, construction had started on the site.
Q Anything other than site preparation?
A The building has been designed.
Q I'm talking about the construction.
A No, sir.
Q All right. And, of course, MCI did not cause the site to be cleared, that was you; isn't that right, Frank Thomas?
A Yes.
Q And Frank Thomas owned the land, not MCI;

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isn't that right?
A Yes.
Q And Frank Thomas has negotiated about the financing of the machines and not MCI; isn't that right?
A Rob Miller is aware of MCI.
Q I didn't ask you that. Isn't it a fact MCI has not negotiated for the financing of any game machines? Isn't that right?
A I can't say that to be true.
Q So, has MCI negotiated for the financing of gaming machines?
A Yes.
Q And you have a contract for that effect?
A Yes.
Q In MCI's name?
A Yes.
Q And you have it in your possession.
A No.
Q Have you negotiated the contract --
A Yes.
Q -- for MCI?
A My accountant, myself, and Greg Carr.

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Q For them individually or for the corporation?
A For the corporation.
Q I think you alleged someplace in your complaint and in the amended complaint that these rules and regulations were changed, and there was no explanation as to why they were being changed. Do you remember that?
A Yes.
Q In effect. Isn't it a fact for the two changes that were commentaries?
A Yes.
Q And you sat there and listened to those commentaries when the Sheriff was testifying on Tuesday; isn't that correct?
A Yes.
Q All right. Now, while you may not agree with the commentaries that he set out in it, he did, in fact, set out what he considered to be the reasons for the changes, didn't he, in the first amendment and in the second amendment, the commentaries to it?
A If he, indeed, wrote that, yes.

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Q Well, I mean, it's attached to his rules and regulations, and you heard him testify, didn't you?
A Yes, sir.
Q And he told you that those were his rules and regulations, that he had adopted them.
A Yes, sir.
Q Okay. So, there were -- And he had set out what he considered reasons for making the changes; isn't that correct?
A You're referring to the commentary?
Q Yes.
A Yes.
Q And did he not have those changes and those rules published in the newspaper?
A Yes.
Q And didn't you, MCI, Reach One Teach One, and anyone else reading the newspaper could have read the rules and regulations and the commentary about the changes if you had wanted to read them?
A Yes.
Q Okay. They weren't hid, were they?

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A Sir?
Q They were not hidden.
A No, they were in, as you said, the commentary.
Q Okay. Now, have you incurred any other financial obligations that you claim you have spent in connection with obtaining a license that you have not already testified to?
A Accounting bills.
Q Approximately how much do you owe for accounting bills?
A Ten thousand ($10,000) dollars.
Q Of course, now, MCII don't have any assets, so they don't have any accounting bills, do they, the corporation?
A No, sir.
Q Okay. Is there anything to keep you from building the facility if you wanted to now?
A Yes, sir.
Q What?
A The Sheriff himself said that he wouldn't do it and wait on him to build it.

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Q I'm asking you what would keep you from doing it, not what the Sheriff said. What's keeping you from building the facility now?
A I'm not an idiot.
Q And that's why you haven't built it?
A Correct.
Q Okay. And that's why you have gone through all these procedures you've testified to to try to get the Sheriff to change his rules to give you a license; is that right, because you're not an idiot?
A Yes, sir.
Q Okay. And the real estate development is your business, and that's what you know about, and that's what you are trained in.
A Not real estate development, real estate.
Q Okay. In real estate. Do you have the personal finances to finance this project?
A Yes, sir.
Q You personally have the finances to finance it?
A I believe I do.
Q Your own without any help from anybody else?

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A Yes, sir, I believe so.
Q **You testified that MCII does not have any assets. Does it have the assets or does it have the finances to construct the facility, the corporation itself?**
A As of today?
Q **Yes, sir.**
A No, sir.
Q **And it didn't have the facilities as of the time the application was filed, did it? Because you've testified that it didn't have any assets then, and it still doesn't have any.**
A The money for MCI is sitting and waiting on some progress with the Sheriff.
Q **Who has the money that's sitting and waiting? Where is it?**
A Me.
Q **Where?**
A The money that comes when my property sells for $10 million dollars.
Q **Oh, and you are going to sell your property to MCI for ten thousand dollars -- $10 million, not ten thousand.**

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A Uh-huh (positive response).
Q **And that's the way you're going to finance it.**
A My partners who are waiting, my investors and friends who are waiting, I cannot justifiably ask anyone to invest money with the political climate as it sits in Macon County and with the rules and regulations and the volatility of the rules and the regulations in Macon County today. If the rules change, we will start construction in the morning.
Q **It's all dependant on the rules changing?**
A Correct. It's impossible today.
Q **Do you have a construction date in mind?**
A December, two years ago.
Q **Okay. It didn't happen, did it?**
A No, sir.
Q **Okay. Do you have any other contractual relationships outstanding with anybody at all which in any way relates to the operating of a bingo facility in Macon County?**

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A No, sir.
Q **Can you tell the Court why you have not tried to get other charities to designate you as an operator?**
A Because I feel that I have a right to open under the same rules and regulations as did Victoryland.
Q **That's not my question. I don't think.**
MR. GRAY, SR: Read my question back, please.
(At which time, the Reporter read the requested portion.)
A Can I keep going?
Q **No. I want you to answer that question. I want to know why you haven't tried to get some other charities. You got one.**
A Correct.
Q **And you didn't know that one. Somebody connected you up. Why didn't you try to get connected up with some other charities other than just one?**
A If I connected up with any more charities, it's of no good because the charity spots are filled for Macon County for 20 years. A monopoly has been formed.

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Q **Well, that's true for the one. It is now.**
A So, why go chase X more?
Q **Okay. So, that's the reason you haven't done it?**
A Yes, sir.
Q **You haven't done it -- why didn't you do it in January of '06?**
A Because there were six -- Well, the paper advertised 59 charities already held at Victoryland.
Q **Why didn't you do it in '05?**
A Because the Sheriff would never tell anyone how many charities were signed at Victoryland. The only information I had is that Bobby Segall was told that Victoryland had 38 charities and nine holding by David Warren.
Q **Why didn't you do it right after it passed between December the 1st and May -- December 1st of '03 and May of '05 early on?**

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A I needed to gain the experience that I now have to build a facility and operate it.
Q Okay. So, you didn't have it then?
A Certainly not.
Q Okay.
MR. GRAY, SR: I think I'm close. If you want to give us five, we may be close to finishing.
(At which time, a recess was taken.)
Q All right. I'm going to show you, Mr. Thomas, a document that your lawyers prepared, plaintiff's application for preliminary injunction and expedited hearing, and ask you specifically to read for me, if you will, in paragraph ten. It's short.
A Yes, sir. "Upon information and belief that the Defendant Sheriff would be granting the application, the plaintiffs began constructing the facility and purchasing equipment for the operation of a Class B bingo facility in Macon County."

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Q All right. And I think you have told us that there is actually no construction on the facility at all, but there has been some site preparation; is that correct?
A Yes, sir.
Q And that site preparation was done by you and not by MCII?
A Correct.
Q Okay. The purchase of equipment. I believe you've testified to is that there has been no equipment purchased, but there has been a contract signed by you, I believe, to purchase certain equipment, but no money at all has been paid on it; is that correct?
A No, sir. No, sir. No money has been paid, correct.
Q That statement that I made is correct?
A Yes.
Q So, to the extent that what you admitted now if it conflicts with what's in paragraph ten, then your testimony is correct if there is a conflict.
A Yes.

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Q Okay. Now, I ask you, if you will, to look at paragraph 11 in the same document, the next page, preliminary injunction. Read that paragraph for us.
A "As such, the plaintiffs seek a preliminary injunction to instruct the defendant" --
Q Let's see. Is that 11?
A Yes, sir.
MR. BOLTON: There's a couple of different 11s.
A Which 11?
Q My 11 on page -- I think I'm on 11 on page three.
MR. THOMAS: Eleven on page three, Plaintiffs suffer?
Q That's what I want.
A Read it?
Q Yes, sir.
A The Plaintiffs have suffered and will continue to suffer irreparable harm if this injunction is not granted. Business reputation, goodwill, and income is being diminished every day that the purchased

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equipment is not in use and the land remains undeveloped. Further, the public use of goals, public service goals of MCI Reach One Teach One venture are being frustrated because no funds are being generated."
Q MCI doesn't have a reputation in the community because it hasn't done anything, has it?
A That's not true.
Q It doesn't have a reputation, does it?
A I think it does have a reputation.
Q It has a reputation?
A Yes.
Q And it hasn't done anything?
A It has done things.
Q What has it done, MCI? It doesn't have assets. It doesn't have liabilities.
A I feel that the community knows that MCI is the entity who desires to operate here.
Q Do they know it's MCI, or do they know it's you?
A I feel they would know it as MCI.
Q And not you.

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A And me as well.
Q **How do you measure the goodwill that MCI has if it has done nothing?**
A I'm stating that it has done something.
Q **Okay. Now, when was it -- It wasn't incorporated until a few days before you filed your application?**
A Correct.
Q **And that was in July of last year. And you are saying that between July of last year and the time you filed the complaint, it had built a reputation?**
A Yes.
Q **And what was that -- Where can you objectively measure their reputation?**
A It's been stated in the Tuskegee News. It's been stated in the Birmingham News. It's been stated on various TV stations in Montgomery. It's been stated at the Chamber of Commerce.
Q **And who stated it?**
A I guess the people who hosted those meetings or the reporters or Mary Orndorff from the

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Birmingham News.
Q **Didn't you tell them whatever there is about MCI? They wouldn't know it other than what you told them.**
A I've never spoken to some of the people. They pulled it as a matter of public record.
Q **But didn't you set in motion whatever took place, Mr. Thomas, for MCI?**
A Yes.
Q **All right. We talked about earlier this check that's identified as Exhibit Five. Did you participate in the preparation, alteration, or manipulation of this check?**
A No, sir.
Q **Did you do anything with it?**
A No, sir.
Q **Did you write it?**
A No, sir.
Q **Did you cause it to be written?**
A No, sir.
Q **Did you type anything on it?**
A No, sir.
Q **Did you cause anybody to type anything on**

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it?
A No, sir.
Q **Did you alter it?**
A No, sir.
Q **Did you do anything to set it in motion so that it could be produced at the hearing on this past Tuesday?**
A No, sir.
Q **Now, you testified about your partners. Tell us every partner you have who is connected with you and/or MCII.**
A As of now, the partners at MCII are Frank Thomas and Greg Carr.
Q **Hold on one minute. Frank Thomas and who?**
A Greg Carr.
Q **Greg Carr.**
A And Macon County.
Q **What do you mean "and Macon County"?**
A I promised three (3%) percent of revenue to Macon County. That would make them a partner.
Q **Yeah, but, now, Macon County only acts through the Macon County Commission. Has**

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the Macon County Commission taken any action at all on your project?
A They have not voted on my project, no, sir.
Q **Okay. So, you're partners, and you can't make somebody your partner unless they are willing to be partners, can you?**
A I feel that they would be willing to be partner.
Q **Well, they didn't, and you presented your proposal to them, didn't you? And they did not act on it; isn't that correct?**
A They said they could not act on it because they could not control the Sheriff David Warren.
Q **Yeah, he's a constitutional law officer. You found out you couldn't control him either, could you?**
A Yes, sir.
Q **But you tried.**
A No, sir.
Q **Okay. These are the only two persons now who are connected with MCII?**
A Yes, sir.

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Q **Now, any other persons who are in your application so far as MCII is concerned they are no longer connected with the project?**
A Now, I have board members.
Q **Beg your pardon?**
A That my board members are listed in the application.
Q **Well, now, what's the difference between your partners, and you say you have two of those, and board members?**
A Well, my definition of partner means that they have monetary interest at stake. My definition of a board member could be a passive individual who simply for their knowledge you ask to advise you through a business.
Q **So, you're saying the only persons who have a financial interest in MCII is you and Greg Carr; is that it?**
A At this date, correct.
Q **Was that correct at the time your application was filed? It was only those two?**

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A I never asked for a dollar from anyone, correct.
Q **I didn't ask you about dollars. I'm trying to take your same language.**
A Sure.
Q **Were these the only two partners you had when you started, you and one partner?**
A Yes, sir.
Q **And those are the only two now?**
A Yes, sir.
Q **Are there any persons who are connected -- who are stated in the application -- Is there any person stated in that application is no longer connected with this project at all now?**
A If you could give me the list of anyone that was stated in the application, I can rule them out.
Q **Give him a copy of the application.**
A Your question?
Q **Well, my question was all of the persons who are stated in your application, are all of those persons still connected with MCII?**

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A Yes, sir.
Q **Okay. I thought you were making some distinction earlier, and I may have misinterpreted your answers. I thought you were making some distinction between who were involved in it initially and who's involved in it now. But you were making no such distinctions?**
A In respect to whom?
Q **MCII.**
A And what individuals? What scenario?
Q **Any individuals in the application that deals with MCII. You're the president of MCII.**
A Ask me the exact question I can answer you. As a partner or as a board member?
Q **My question is: Any person that you listed in MCII that's about MCII, are all of those persons you have listed there, are they still connected in the capacity to which they were connected at the time that application was filed?**
A Yes, sir.

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Q **That's all I'm trying to find out.**
Now, who are your board members?
A Myself.
Q **The current members of the board of MCII.**
A Frank Thomas, Greg Carr, Gary Nichols, Adam Fuller, and Jim Barganier.
Q **Now, if you'll give us those a little slower and indicate that the office they hold.**
A The only two officers are myself and Greg Carr.
Q **And what offices?**
A The president and vice-president.
Q **And you said earlier that Greg Carr was the treasurer.**
A Greg Carr has handled any and all clerical details for the whole thing.
Q **But is he the treasurer or not?**
A He's the vice-president.
Q **Well, now, give me again who the officers are of MCII.**
A Frank Thomas and Greg Carr.
Q **And Frank Thomas is the president.**
A Yes, sir.

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Q **And Greg Carr is what?**
A Vice-president.
Q **You don't have a treasurer.**
A No, sir.
Q **Okay.**
A If I said that earlier, I misspoke.
Q **And you don't have a secretary.**
A Not as of title, no, sir.
Q **Do you have any by-laws for the corporation?**
A Yes, sir.
Q **Will you make a copy of -- Are they available? The by-laws, are they in there? Okay. They are in the application, so I don't want nothing that's already here.**
A I understand.
Q **Have you had any meetings?**
A Yes, sir.
Q **Tell me each meeting of the board of directors that you had.**
A I can't recall the dates.
Q **Approximately how many meetings you've had since it's been incorporated?**
A One meeting and several telephone

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conversations.
Q **One meeting. When was that meeting?**
A I can't recall the date.
Q **In your best judgment.**
A Early last summer.
Q **Was it immediately -- Was it an organizational meeting after you incorporated?**
A Yes, sir.
Q **And that's the only meeting you've had?**
A Yes, sir.
Q **You've had no meeting since then?**
A Not with everybody.
Q **I'm talking about meeting of the board.**
A No, sir.
Q **Do you have minutes of that meeting, that one meeting you've had?**
A Attorney Carr will.
Q **All right. Now, who presided at that meeting?**
A Myself.
Q **And who kept the minutes?**
A Attorney Carr.

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Q **And what decisions were made at that meeting?**
A To move forward with the application.
Q **Anything else?**
A No, sir.
Q **Any other specific actions taken at that meeting?**
A No, sir.
Q **Who are your investors?**
A As of today? Me.
Q **Well, tell me who were your investors as of the time the application was filed. Excuse me one moment. Excuse me. Give me a couple of minutes.**
(At which time, a recess was taken.)
Q **Let me ask you: Who were the investors at the time the application was filed?**
A There were no investors that had put money in other than me at that time. But Gary Nichols, Jim Barganier, Ken Upchurch, Sid Coleman, Walter Dowdell, myself, Rob Miller at Gaming Capital expressed an interest, Joe

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Canfora at Merit Management. We had no investors. I had a long list of people who wanted to invest.
Q **Who were interested?**
A Yes, sir.
Q **You had no firm commitment from anybody.**
A The board. Each individual on the board had committed to put money in.
Q **I mean, was there a commitment in writing to put in a certain amount of money?**
A No, sir.
Q **Is there a commitment in writing with any of these persons to put any money in, in writing?**
A No, sir.
Q **So, really all you have is a list of people who have talked to you and who have indicated a possibility of investing.**
A Correct.
Q **But nothing concrete.**
A Nothing in writing.
Q **Okay. And that was true at the time the application was filed, right?**

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A Yes.
Q And is that also true today? Let me change that first and ask you: Are these same persons that you've listed at that time, are they still all on board as far as expressing an interest now in making a financial investment?
A Yes, sir.
Q Have they signed anything in writing?
A No, sir.
Q Is there anything different today in terms of the kind of commitment they made different from the time they applied and now?
A No, sir.
Q So, there is nothing to compel either one of those if they elected not to, even if you got the license. There was nothing that would compel them to make an investment if they didn't want to.
A There were --
Q I mean, nothing legal --
A No, sir.

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Q -- that you could enforce.
A No, sir.
Q And on the other hand, if you got the license and you didn't want them to invest, there is nothing they could do to make you let them invest, is there?
A My word.
Q I mean, other than your word.
A No, sir.
Q No legal documents.
A No, sir.
Q All right. What funds are there available to finance this project other than the $10 million you hope to personally receive as Frank Thomas when you sell it to MCII?
A Several entities have expressed an interest, several individuals as well.
Q Do you have any commitment from any corporation to finance it?
A I did not want to rope myself to any corporation. No, sir.
Q The answer is no?
A No.

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Q Do you have any firm commitment from any individual?
A To?
Q To finance it.
A No, sir.
Q Do you have any firm commitment from any person, firm, corporation, or legal entity to finance this project, anything firm?
A Yes, sir.
Q What?
A The agreement with Gaming Capital.
Q Now, the Gaming Capital, I thought that was just an agreement to buy some equipment --
A It is.
Q -- and that's all.
A Yes, sir.
Q Other than that, is there anything else?
A No, sir.
Q Okay. What -- If your proposed plan is built according to the plans and specifications set out therein, what is the estimated total cost?
A Today?

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Q Yes, because you would have to build it today, wouldn't you?
A Right. Well, it's -- naturally construction cost has significantly increased with Katrina and prime --
Q Just tell me the figure.
A North of sixty, south $70 million all inclusive.
Q Between sixty and $70 million dollars?
A Yes, sir.
Q And you don't have a firm commitment from anybody to finance that sixty to $70 million dollars?
A No, sir.
Q How much did you pay Joe Turner?
A Forty-five thousand ($45,000) dollars.
Q Forty-five thousand ($45,000) dollars to do what?
A To act as a lobbyist to keep me posted with what was going on at the State level --
Q State level?
A -- and help speak with David Warren.
Q You paid that lobbyist forty-five thousand

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($45,000) dollars. You paid -- And you paid him that to speak to your friend who you visited him in his house and you-all hugged each other. And you paid Donald Watkins a million dollars to serve as a consultant. Who else have you paid something in connection with this project?
A Accounting to Jackson Thornton.
Q How much is that?
A Around ten thousand ($10,000).
Q And who else have you paid anything in connection with this project?
A For the clearing.
Q How much?
A Probably forty thousand ($40,000) dollars.
Q Forty thousand ($40,000) dollars to clear it. Who else?
A Attorneys.
Q How much?
MR. THOMAS: On attorneys, we're going to object.
MR. GRAY: I'm not asking details. I'm just asking, and he's claiming

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that he's suffered damages. I'm just asking amounts.
Q And I'm not asking you which attorneys got what. Just for an amount. Total amount for attorneys fees that's been paid so far.
A Fifty thousand ($50,000).
Q Fifty thousand ($50,000). Total amount that's obligated to be paid?
A None, as of now.
MR. THOMAS: To what now?
A I don't know.
MR. THOMAS: Answer the next question
MR. GRAY: Okay. My question is what you said. I'm not talking about -- I'm serious.
MR. THOMAS: We just want the record clear.
MR. GRAY: You want the record clear.
A I do not know.
Q You have indicated that you have paid fifty thousand ($50,000) to attorneys fees, and I don't want to know who those lawyers were.
A Yes, sir.

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Q And you talked about a slew of them. What is the estimated cost for future attorneys fees in connection with this?
A I have no idea.
Q In your best judgment.
A I would love to estimate low. I have no idea. I have no idea.
MR. THOMAS: I know he ain't got no idea.
A Let's don't run my attorney off here, now. I do not know.
Q Let me just ask you: Do you think it will exceed the amount that you paid your consultant? If you paid the consultant a million dollars, wouldn't you think that the lawyers fee would probably be in excess of that?
A I have no basis by which to make that decision, Mr. Gray.
Q Okay. All right.
A I certainly hope not.
Q All right. Thank you very much. I appreciate you answering my questions.

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A Thank you.
CROSS-EXAMINATION
BY MR. THOMAS:
Q I've got a few for you. As you have stated in your complaint and application for injunctive relief, you will be seeking from the Court if you prevail on this lawsuit an award of a reasonable attorneys fees on your behalf; is that correct?
A Yes, sir.
Q Okay. And nothing you told Mr. Gray precludes that; is that correct?
A No, sir.
Q Right. Now, if I could, let me ask you this: On any occasion, Mr. Thomas, has Sheriff Warren ever advised you that the application that he received on behalf of Reach One Teach One and MCII has been denied?
A No, sir.
Q Did you understand my question?
A Yes, sir.
Q Okay. Have you ever received anything in

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writing from Sheriff Warren regarding any aspects of the application that was filed on behalf of Reach One Teach One and MCII?
A No, sir.
Q Is that the reason why you haven't sought any type of appeal to the –
MR. GRAY, SR: Objection as to the form.
Q Would you state for the record why you have not sought any type of appeal to the Macon County Commission or to the Circuit Court of Macon County?
A I felt like I'm still to a degree in limbo. I don't really know where I am. I know where I'm not.
Q If we could as it relates to Defendant's Exhibit One that I voiced an objection to, I want to make the record very clear, that judgment in every respect has been paid; is that correct?
A Yes, sir.
Q Completely satisfied?
A Yes, sir.

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Q No one is seeking to recover anything against you regarding that judgement?
A I'm friends with the guy, no, sir.
Q Okay. I didn't ask you were you friends.
A No, sir. No, sir, at all.
Q Do you feel that you have every right to seek an opportunity to operate a qualified location under the current bingo laws that exist in Macon County? Do you have that right?
A To seek it?
Q Yes.
A Yes, sir. Yes, sir.
Q And be granted one.
A I can't be granted one under the current. Yes, I have a right.
Q But do you believe the right to have one?
A Yes, sir. Yes, sir.
Q Don't you believe that everybody on an equal basis should be entitled to conduct business not only in this County but in America?
A Yes, sir.
MR. GRAY, JR: Object to the form.

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Q Okay. Why don't you state what are some other reasons you wanted to operate a bingo gaming in Macon County?
A I've always enjoyed Macon County. I came to Macon County and started looking at property five or six years ago, whenever my first closing statement was. Macon County has been good to me as far as land. I feel like I've largely helped the property values go up. There are a lot of good folks in Macon County. There are a lot of bad folks in Macon County. I've been robbed several times at my farm. I think that's all a result of, you know, maybe -- not necessarily by any means a bad law enforcement sheriff. I'm just way down in the woods. But I think that Macon County needs money. I think that money can help everything. I've been to a County Commission meeting during Christmas -- I think Mr. Gray was there -- where the County employees said they didn't even have a bathroom at the County shop. I want to

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help.
Q When you were asking questions on direct examination by Mr. Gray, you referenced some type of discussion or meeting you had with Sheriff Warren at his home wherein there was mentioned some type of threats -- or the Sheriff mentioned in some terms that -- Was it he who was receiving threats?
A The Sheriff simply told me to beware. He by no means threatened me.
Q Okay.
A Milton McGregor did not threaten me either. The Sheriff told me to beware.
Q Okay. Well, what persons did he identify for you to be afraid of?
A He was raising his voice and cursing Milton McGregor, cursing Mr. McGregor, calling him, apparently watching him, and he just told me to beware.
Q There has also been identified in some exhibits some suggested rules. And I think you may have seen those exhibits. If I may, let me take a peek at them. Now,

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Plaintiff's Exhibit Three and Four talks about first amendment to the second restated -- I'm sorry -- first amendment to second amended and restated rules and regulations for the licensing and operation of bingo.
MR. GRAY: That's exhibit what?
MR. THOMAS: Three --
MR. GRAY: Thank you.
MR. THOMAS: -- of Macon County.
Q And then Exhibit Four is the second amendment to the second amended and restated rules and regulations for the licencing and operation of bingo games in Macon County. Now, I think you mentioned that you had hired or retained Joe Turner to contact Sheriff Warren on your behalf; is that correct?
A Yes, sir.
Q And also at that time, an attorney by the name of Bobby Segall was contacting the Sheriff on your behalf, right?
A Yes, sir.

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Q What role, if any, do you know of that the Sheriff played in formulating these first amendment and second amendment that's set forth in Defendant's Exhibit Three and Four?
A A significant role.
Q What do you mean by that?
A The Sheriff had stated that he wanted out, that he didn't like being in this position. He expressed that to me.
Q Now, what do you mean by "he wanted out and he didn't like being in this position"?
A He didn't like being placed in the position of the sole promulgator and regulator of bingo rules and bingo in Macon County.
Q Did he explain to you why?
A It was too much pressure.
Q And what did he share with you that relates to pressure?
A He couldn't sleep, that people were pressuring from all sides. It was hurting his livelihood, not enabling him to continue his job as a sheriff as he wanted to be and had been since 1995. It's something he did

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not ask for.
Q And what type of people were pressuring him? Did he give any names?
A Milton McGregor.
Q And what did he say Mr. McGregor had did or did not do as it relates to pressure?
A He would just say "that son of bitch," and this. "I didn't ask for this. I don't want to be here." He also mentioned Johnny Ford. With all due respect to the Sheriff, he didn't ask for this, and it really was unfair of them to throw it all on him.
Q Did he say that to you?
A Yes, sir.
Q Now, were these statements made to you by the Sheriff on occasions when you were trying to advance the application or interest of Reach One Teach One and MCII for a Class B bingo license?
A Yes, sir.
Q Now, let me ask you this: And you were present at the Sheriff's deposition on Tuesday of this week, August 15th; is that

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correct?
A Yes, sir.
Q You heard the Sheriff in no uncertain terms say that all of the charities that could be allotted by his office for a Class B bingo license had been taken up; is that correct?
A Correct.
Q And I think he identified 60; is that correct?
A Correct.
Q And you recall he had reduced that big stack of documents of all the licenses issued, right?
A Correct.
Q Okay. So, there is no way under the current state of the rules and regulations promulgated by Sheriff Warren that Reach One Teach One could get a license at this time.
MR. GRAY, JR: Object to the form.
A No, sir. No, sir.
Q Okay. Now, you were asked some questions about making contributions to candidates in the various PACs, right?

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A Yes, sir.
Q **That's not unusual campaign activity, is it?**
A No, sir.
Q **Okay. There were a lot of people sponsoring Sheriff Warren Davis for re-election, wasn't it?**
A There were a lot of signs around town, yes, sir.
Q **Okay. All right. Now, let's talk about a license. Mr. Thomas, how difficult would it be for you to raise money if you were awarded status as a qualified location for a Class B bingo license in Macon County?**
MR. GRAY, SR: Objection to the form.
Q **If you understand the question, you can answer it.**
A Again, I would start construction this afternoon. There would be no difficulties.
Q **And explain to the Court what you mean by "it would not be any difficulties."**
A My people and friends are ready to go. They know I've fought over here for three years to get this thing done. They know I'm not

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going to quit. And they want to see it through.
Q **But a class A -- obtaining a status as a qualified location for Class B bingo in Macon County is a valuable designation, isn't it?**
A Yes, sir.
Q **You think you would have any difficulties raising the necessary funds to build this facility that you've identified just north of $60 million and just short of $70 million?**
A No, sir.
Q **Now, the check that was returned -- and I think you have a letter here where the attorney for the Macon County Board of Education sent back to you, I guess, some checks. Yeah, Exhibit Number Six. I think you gave that to Mr. Gray out of your briefcase; is that correct?**
A Yes, sir.
Q **Now, when you got those checks -- when those checks were returned to you, explain what,**

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if anything, you did.
A I responded incorrectly the money stayed with -- returned to Reverend Walker, and he redistributed it to other charitable organizations in the County.
Q **Do you know what organizations it was given to?**
A No, sir.
Q **Okay.**
A I was upset about the whole deal.
Q **Now, and I think you made this very clear in your responses to Mr. Gray. But there is currently a contract between Frank Thomas and MCII for the transfer of title of that land that you own; is that correct?**
A Yes, the 56 acres.
Q **The 56 acres. Is the 56 acres going to be enough land for the development and the preparation and building of the facility that's been designed?**
A More than enough.
Q **Is it going to be difficult for you to transfer title to MCII?**

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A Not at all, no, sir.
Q **Okay. That's pretty much the stroke of the ink pen, isn't it?**
A Yes, sir. When we get there, we're ready.
Q **Just one second, Mr. Thomas. Let me ask you this -- and I don't know if the record is clear on this, but please explain to the Court why you have not built a facility at least worth $15 million to conduct bingo, a Class B bingo game.**
A Well, I mean, naturally this is a volatile industry. I think that's been proven with, you know, rule changes every six months. Until the charity cap was enacted, in which case, there's no need to change the rules any further because the monopoly has been formed for 20 years.
Q **You didn't hear my question apparently.**
A Well, I felt just like the Sheriff David Warren did. There's no intelligent business person would go spend $15 million to build an industry specific building based on, A, one person's opinion anyway, regardless of

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what it was; and, B, with the track record of rules changing that actually set the regulations for the industry. It would be a bad investment because you could have a $15 million building that could be absolutely perfect, but the Sheriff didn't like the color of it or changed the rules the day before, and then you've got a $15 million building in Macon County, and you'd have the only one.
Q **And actually the design that you submitted with your application would cost how much?**
A Well, I mean, it was at $16 million at that time. It would probably be $25 now because we've added --
Q **The design of the building?**
A Oh, how much did I pay for the design?
Q **No, no. The facility to be constructed that you proposed, the schematic scheme you've given us, what's the value that you said it would be?**
A The total including machines is $60 to $70 million. The building itself is in the $20,

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$25, $30 million.
Q **Okay.**
A Improvements.
Q **So, for your building, it would not just be fifteen -- I'm sorry. For the building that you are proposing to build, it would just not be $15 million.**
A It would be well over $15 million for the building alone without any fixtures.
Q **Would be how much?**
A In the $25 million range.
Q **Okay. So, you would be asked to put $25 million in the ground and hope that the Sheriff would approve it as a qualified location.**
A To build what I have planned, yes, sir.
Q **Okay. And I would also assume that one of the reasons or the lack of the building is why you don't have the liability insurance for the building, right?**
MR. GRAY, SR: Objection to the form.
A There is nothing to insure. There's nothing to insure.

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Q **Just one second, Mr. Thomas. Just for the record, who is the one qualified location that you know of in Macon County to conduct Class B bingo gaming?**
A Victoryland or d/b/a Macon County Greyhound Park or vice versa.
Q **And if you were granted such a status, you would be in direct competition with Victoryland, wouldn't you?**
A It can be certainly, yes, sir. I take it as that. I'm not out to get Victoryland. I simply want my own opportunity. But we would be doing the same thing in the same market.
Q **And do you know of any reason why you should be denied the same and equal opportunity that the operators and owners of Victoryland enjoy?**
A No, sir.
Q **Do you think you are entitled to an equal opportunity?**
A I certainly do.
Q **Let me check this here. I just want to**

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clear up something about this check. As I understood your answers to Mr. Gray's questions, you had nothing to do with anything relating to this contract other than receiving it and looking at it; is that accurate?
A Well, yes. I didn't receive it. It was received at Greg Carr's office.
Q **In a mail shoot?**
A Yes, sir.
Q **Is that the type of thing where a door has a little thing in it, and you slide something through it?**
A Uh-huh (positive response). I didn't receive it at the mail shoot. Greg Carr received it at his office.
Q **Okay. So, all you've ever done is just simply seen this document; is that correct?**
A Sir?
Q **All you've done is simply seen this document.**
A Correct.
Q **Okay. You were asked some questions about**

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manipulation or alteration of it. Did you?
A No, sir.
MR. THOMAS: We have no further questions for the witness, Mr. Gray.

REDIRECT EXAMINATION

BY MR. GRAY:
Q Just a couple more. Now, you did a little more than just receive that check. You also implied by answering the Sheriff whether Milton McGregor, the owner of Victoryland, had given him any money. And he said, "No." You remember that, don't you?
A Answering the Sheriff? Could you read that back, please?
Q Do you remember during the Sheriff's deposition --
A Yes, sir.
Q -- he was asked about the check. And before the check was displayed, he was asked whether Milton McGregor had given him any money. Do you remember that?
A Yes, sir.

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Q And what was his response?
A "No."
Q Then your lawyer presented to him that check, and I think you have earlier said you were under the impression that that check was a check from Milton McGregor, the CEO of Victoryland. You were of that opinion; isn't that correct?
A No, sir. I said that I took the check as face value. The remitter was Milton McGregor. It was written to David Warren.
Q And did you assume that that was Milton McGregor, the vice-president and CEO of Victoryland, the president? Didn't you say that earlier in your testimony?
A I don't know any other Milton McGregor.
Q But I'm saying didn't you admit that you assumed that's who it was?
A I would assume it was from Milton McGregor to David Warren.
Q And you also said that before you had your lawyer present it and ask the questions about it, that you had made no investigation

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whatsoever to determine whether that check is, in fact, from Milton McGregor, the president and CEO of Victoryland, or some other person by the name that's indicated on the check. You admitted that, didn't you?
A Correct.
Q And you made no such investigation.
A No, sir.
Q You admit not then, and you have not until now.
A No, sir.
Q And I think you said earlier on in your deposition that there was nothing to have stopped any charity before it reached the 60 limit to have applied for a license like the others had applied if they wanted to.
A I guess you would have to ask the charities, but, no, sir, I would say not.
Q Okay. And I think you admitted that there was no -- MCII could have filed its application with some charity earlier than it did when the number was less than 60. But I think you said you elected not to do

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that because you didn't feel you were ready then in your earlier testimony.
A I said I wasn't ready in 2003 when the law passed. That was the way you asked me the question. And I was not ready in 2003.
Q And I think you said you weren't ready in 2004.
A I could have filed in 2004.
Q Okay.
MR. GRAY: I think that's it.

(Deposition concluded at approximately 3:07 p.m.)

* * * * *

FURTHER DEPONENT SAITH NOT

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REPORTER'S CERTIFICATE

STATE OF ALABAMA)
ELMORE COUNTY)

I, Jeana S. Boggs, Certified Professional Reporter and Notary Public in and for the State of Alabama at Large, do hereby certify on Friday, August 18th, 2006, that pursuant to notice and stipulation on behalf of the Defendants, I reported the deposition of FRANK THOMAS, III, who was first duly sworn by me to speak the truth, the whole truth, and nothing but the truth, in the matter of MACON COUNTY INVESTMENTS, INC., REACH ONE, TEACH ONE OF AMERICA, INC, Plaintiffs, versus SHERIFF DAVID WARREN, in his official capacity as the SHERIFF OF MACON COUNTY, ALABAMA, Defendant, Civil Action No. 3:06-CV-224-WKW, now pending in the United States District Court for the Middle District, Eastern Division of Alabama; that the foregoing colloquies, statements, questions and answers thereto were reduced to 276 typewritten pages under my direction and supervision; that the deposition is a true and

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accurate transcription of the testimony/evidence of the examination of said witness by counsel for the parties set out herein; that the reading and signing of said deposition was not waived by witness and counsel for the parties.

I further certify that I am neither of relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the results thereof. All rates charged are usual and customary.

This the 22nd day of August, 2006.

____
Jeana S. Boggs
Certified Court Reporter and
Notary Public
Commission expires: 8/7/2010

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ERRATA SHEET

I, FRANK THOMAS, III, the witness herein, have read the transcript of my testimony and the same is true and correct, to the best of my knowledge, with the exception of the following changes noted below, if any:

Page / Line / Change / Reason

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____
FRANK THOMAS, III

Sworn to and subscribed before me, this the _____ day of __________, 2006.

____
Notary Public
My commission expires:________

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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 8:18
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